Government of Bombay
Legal Department

The Bombay Code

Volume II

PART III

Containing

The Acts passed by the Bombay Legislative Council from 1922 to 1936 and by the Bombay Legislature from 1937 to 1949; the Regulations made by the Governor of Bombay under sub-section (*2*) of section 92 of the Government of India Act, 1935; and a Chronological Table of Acts with an Index and a General Index.

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THE BOMBAY HOME GUARDS ACT, 1947.

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BOMBAY ACT No. III OF 1947.[1]

[THE BOMBAY HOME GUARDS ACT, 1947.]

[*22nd March 1947*]

Amended by Bom. 11 of 1950.
Adapted and modified by the Adaptation of Laws Order 1950.
Amended by Bom. 4 of 1954.

An Act to provide for the constitution of Home Guards.

WHEREAS it is expedient to provide a volunteer organisation for use in emergencies and for other purposes in the Province of Bombay; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Home Guards Act, 1947.

(*2*) It extends to the whole of the [2][State] of Bombay.

(*3*) It shall come into force at once in the area of Greater Bombay and the area comprising limits of the municipal borough and the cantonment of Ahmedabad. The [3][State] Government may by notification in the *Official Gazette* direct that it shall come into force in any other area on such date as may be specified in such notification.

Constitution of Home Guards and appointment of [5][Commandant General and Commandant].

2. (*1*) The [3][State] Government shall constitute for each of the areas specified in sub-section (*3*) of section 1 and for each of the areas notified under the said sub-section (*3*) a volunteer body called the Home Guards, the members of which shall discharge such functions [4][and duties] in relation to the protection of persons, the security of property and the public safety as may be assigned to them in accordance with the provisions of this Act and the rules made thereunder.

(*2*) The [3][State] Government shall appoint a Commandant of each of the Home Guards constituted under sub-section (*1*).

[5][(*3*) The State Government shall also appoint a Commandant General of the Home Guards in whom shall vest the general supervision and control of the Home Guards throughout the State.]

Appointment of members.

[7][**3.** (*1*) Subject to the approval of the Commandant General, the Commandant may appoint as members of the Home Guards such number of persons, who are fit and willing to serve, as may from time to time be determined by the State Government, and may appoint any such member to any office of command in the Home Guards.

(*2*) Notwithstanding anything contained in sub-section (*1*) the Commandant General may, subject to the approval of the State Government, appoint any such member to any post under his immediate control.]

Functions and duties of members.

[8][**4.** (*1*) The Commandant may at any time call out a member of the Home Guards for training or to discharge any of the functions or duties assigned to the Home Guards in accordance with the provisions of this Act and the rules made thereunder.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt V, page 25; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Provincial", *ibid.*

[4] These words were inserted by Bom. 11 of 1950, s. 2 (*1*).

[5] This sub-section was inserted, *ibid.*, s. 2 (*2*).

[6] These words were substituted for the word "Commandant", *ibid.*, s 2 (*3*).

[7] Section 3 was substituted for the original, *ibid.*, s. 3

[8] Section 4 was substituted for the original, *ibid.*, s. 4.

(*2*) The Commandant General may in an emergency call out a member of the Home Guards for training or to discharge any of the said functions or duties in any part of the State.]

Powers, protection and control.

5. (*1*) A member of the Home Guards when called out under section 4 shall have the same powers, privileges and protection as an officer of police appointed under any Act for the time being in force.

(*2*) No prosecution shall be instituted against a member of the Home Guards in respect of anything done or purporting to be done by him in the discharge of his functions [1][or duties] as such member, except with the previous sanction of the Commissioner of Police, Bombay, in Greater Bombay, and of the District Magistrate, elsewhere.

Control by officers of police force.

6. The members of the Home Guards when called out under section 4 in aid of the police force shall be under the control of the officers of the police force in such manner and to such extent as may be prescribed by rules made under section 8.

Certificate, arms, etc., to be delivered up by person ceasing to be member.

[2][**6A.** (*1*) Every person who for any reason ceases to be a member of the Home Guards shall forthwith deliver up to the Commandant or to such person and at such place as the Commandant may direct, his certificate of appointment or of office and the arms, accoutrements, clothing and other necessaries which have been furnished to him as such member.

(*2*) Any Magistrate, and for special reasons which shall be recorded in writing at the time, any police officer not below the rank of a Deputy Commissioner for Police in Greater Bombay and Assistant or Deputy Superintendent of Police elsewhere, may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing or other necessaries not so delivered up. Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by a police officer or if the Magistrate or the police officer issuing the warrant so directs by any other person. V of 1898.

(*3*) Nothing in this section shall be deemed to apply to any article which under the orders of the Commandant General has become the property of the person to whom the same was furnished.]

Punishment of members for neglect of duty, etc.

[2][**6B.** (*1*) The Commandant shall have the authority to suspend, reduce or dismiss or fine, to an amount not exceeding fifty rupees, any member of the Home Guards, under his control, if such member, without reasonable cause, on being called out under section 4 neglects or refuses to obey such order or to discharge his functions and duties as a member of Home Guards or to obey any lawful order or direction given to him for the performance of his functions and duties or is guilty of any breach of discipline or misconduct. [3][The Commandant shall also have the authority to dismiss any member of the Home Guards on the ground of conduct which has led to his conviction on a criminal charge.] The Commandant General shall have the like authority in respect of any member of the Home Guards appointed to a post under his immediate control.

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[1] These words were inserted by Bom. 11 of 1950, s. 5.
[2] Sections 6A and 6B were inserted, *ibid.*, s. 6.
[3] These words were inserted by Bom. 4 of 1954, s. 2 (*i*).

[1][(*1A*) Notwithstanding anything contained in this Act, the Commandant shall have the authority to discharge any member of the Home Guards at any time subject to such conditions as may be prescribed if, in the opinion of the Commandant, the services of such member are no longer required. The Commandant General shall have the like authority in respect of any member of the Home Guards appointed to a post under his immediate control.]

(*2*) When the Commandant General or the Commandant passes an order for suspending, reducing, dismissing or fining any member of the Home Guards under sub-section (*1*) he shall record such order or cause the same to be recorded, together with the reasons therefor and a note of the inquiry made, in writing, and no such order shall be passed by the Commandant General or the Commandant unless the person concerned is given an opportunity to be heard in his defence.

(*3*) Any member of the Home Guards aggrieved by an order of the Commandant may appeal against such order to the Commandant General and any such member aggrieved by an order of the Commandant General may appeal against such order to the State Government, within thirty days of the date on which he was served with notice of such order. The Commandant General or the State Government, as the case may be, may pass such order as he or it thinks fit.

(*4*) The Commandant General or the State Government may at any time call for and examine the record of any order passed by the Commandant or Commandant General, respectively, under sub-section (*1*) [2][or (*1A*)] for the purpose of satisfying himself or itself as to the legality or propriety of such order passed by the Commandant or the Commandant General, as the case may be, and may pass such order with reference thereto as he or it thinks fit.

(*5*) Every order if no appeal is made therefrom as hereinbefore provided and every order passed in appeal or revision under this section shall be final.

V of 1898. (*6*) Any fine imposed under this section may be recovered in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of fines imposed by a Court as if such fine were imposed by a Court.

(*7*) Any punishment inflicted on a member of the Home Guards under this section shall be in addition to the penalty to which such member is liable under section 7 or any other law for the time being in force.]

Penalty. **7.** (*1*) If any member of the Home Guards, on being called out under section 4, without [3][reasonable excuse], neglects or refuses to obey such order, or to discharge his functions as a member of the Home Guards, or to obey any lawful order or direction given to him for the performance of his duties, he shall, on conviction, be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees or with both.

[4][(*1A*) If any member of the Home Guards wilfully neglects or refuses to deliver up his certificate of appointment or of office or any other article, in accordance with the provisions of sub-section (*1*) of section 6A, he shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.]

(*2*) No proceedings shall be instituted under sub-section (*1*) [5][or (*1A*)] without the previous sanction of the Commandant.

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[1] Sub-section (*1A*) was inserted by Bom. 4 of 1954, s. 2 (*ii*).
[2] These word, brackets, figure and letter were inserted, *ibid*, s. 2 (*iii*).
[3] These words were substituted for the words " sufficient excuse " by Bom. 11 of 1950, s. 7 (*1*).
[4] Sub-section (*1A*) was inserted, *ibid.*, s. 7 (*2*).
[5] The word, brackets, figure and letter " or (*1A*) " were inserted, *ibid.*, s. 7 (*3*).

(*3*) A police officer may arrest without warrant any person who commits an offence punishable under sub-section (*1*) [1][or (*1A*)].

Rules.

8. The [2][State] Government may make rules consistent with this Act,—

[3][(*a*) providing for the exercise by any officer of the Home Guards of the powers conferred by section 4 on the Commandant and the Commandant General ;]

(*b*) providing for the exercise of control by officers of the police force over members of the Home Guards when acting in aid of the police force ;

(*c*) regulating the organisation, appointment, conditions of service, functions, discipline, arms, accoutrements and clothing of members of the Home Guards and the manner in which they may be called out for service ;

(*d*) regulating the exercise by members of the Home Guards of any of the powers exercisable under section 5 of this Act ;

(*e*) generally for giving effect to the provisions of this Act.

Members of Home Guards to be public servants

9. Members of the Home Guards acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Home Guards not disqualified from contesting elections to State Legislature or local bodies.

[4][**9A.** (*1*) A member of the Home Guards shall not be disqualified for being chosen as, and for being, a member of the Bombay Legislative Assembly or the Bombay Legislative Council merely by reason of the fact that he is a member of the Home Guards.

(*2*) Notwithstanding anything contained to the contrary in any other law for the time being in force, a member of the Home Guards shall not be disqualified for being chosen as, and for being, a member of any local authority merely by reason of the fact that he is a member of the Home Guards.]

Repeal and saving.

10. The Bombay Home Guards Ordinance, 1946, is hereby repealed : Bom. Ordinance No. 1 of 1946.

Provided that the Home Guards constituted under the said Ordinance shall be deemed to be constituted under this Act ; and all appointments and rules made, under the said Ordinance and in force immediately before the coming into operation of this Act shall continue in force and be deemed to be made in pursuance of this Act.

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[1] The word, brackets, figure and letter " or(*1A*)" were added by Bom. 11 of 1950, s. 7 (*4*).

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] This clause was substituted for the original by Bom. 11 of 1950, s. 8.

[4] Section 9A was inserted, *ibid.*, s. 9.

The Bombay Public Security Measures Act, 1947 (Bom. VI of 1947), at pages 2333-2344-B has ceased to be in force with effect from 23rd March 1953.

THE MOTOR VEHICLES (BOMBAY AMENDMENT) ACT, 1947.

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BOMBAY ACT No. VII OF 1947.[1]

[THE MOTOR VEHICLES (BOMBAY AMENDMENT) ACT, 1947.]

[*23rd March 1947*]

Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 21 of 1954.

An Act to amend the Motor Vehicles Act, 1939, in its application to the Province of Bombay.

IV of 1939. WHEREAS it is expedient to amend the Motor Vehicles Act, 1939, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title

1. This Act may be called the Motor Vehicles (Bombay Amendment) Act, 1947.

Amendment of section 42 of Act IV of 1939.

IV of 1939. **2.** In section 42 of the Motor Vehicles Act, 1939 (hereinafter called the said Act), for clause (*a*) of sub-section (*3*), the following shall be substituted, namely:—

"(*a*) to any transport vehicle owned by or on behalf of the Central Government or a [2][State] Government other than a vehicle used for a commercial purpose or for the purposes of a commercial department;"

Amendment of section 43 of Act IV of 1939.

3. To sub-section (*1*) of section 43 of the said Act the following shall be added, namely:—

"; or

(*iii*) notwithstanding anything contained in section 58 or section 60 cancel any permit granted under the Act in respect of a transport vehicle or class of such permits either generally or in any area specified in the notification:

Provided that no such notification shall be issued before the expiry of a period of three months from the date of a notification declaring its intention to do so:

Provided further that when any such permit has been cancelled the permit holder shall be entitled to such compensation as may be provided in the rules; or

(*iv*) declare that it will engage in the business of road transport service either generally or in any area specified in the notification."

Amendment of section 44 of Act IV of 1939.

4. In sub-section (*2*) of section 44 of the said Act, the following provisos shall be added, namely:—

"Provided that if the [2][State] Government so thinks fit the Provincial Transport Authority or a Regional Transport Authority may consist of a single official:

Provided further that nothing in this sub-section shall apply to an official merely by reason of the fact that the [2][State] Government employing him has any financial interest in a transport undertaking."

Insertion of new section 44A in Act IV of 1939.

5. After section 44 of the said Act, the following new section shall be inserted, namely:—

Transport Officers to exercise notified powers.

"**44A.** Notwithstanding anything contained in this Act, the [2][State] Government may by notification in the *Official Gazette* authorise the Provincial Transport Officer or a Regional Transport Officer to exercise and discharge in lieu of any other authority prescribed by or under this Act such powers and functions as may from time to time be specified in the notification."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V, page 97; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Amendment of section 45 of Act IV of 1939.

6. To section 45 of the said Act, the following proviso shall be added, namely :—

"Provided that the [1][State] Government may by notification in the *Official Gazette* direct that applications for such class of permits in such region as may be specified in the notification shall be made to the Provincial Transport Authority."

Amendment of section 47 of Act IV of 1939.

7. In section 47 of the said Act, in sub-sections (*1*) and (*2*) after the words "Regional Transport Authority" the words "or the Provincial Transport Authority" shall be inserted.

Amendment of sections 48, 54, 55, 56, 57, 58 and 64 of Act IV of 1939.

8. In sections 48, 54 (*d*) 55, 56, sub-sections (*2*), (*3*), (*4*), (*5*) and (*7*) of section 57 and sections 58 (*1*) and [2][64(*g*)] of the said Act, after the words "Regional Transport Authority" wherever they occur the words "or the Provincial Transport Authority" shall be inserted.

Insertion of new section 48A in Act IV of 1939.

9. After section 48 of the said Act, the following new section shall be inserted, namely :—

Issue of stage carriage permit to Government or local authorities.

"48A. Notwithstanding anything contained in sections 47 and 48, a Regional Transport Authority or the Provincial Transport Authority shall issue the stage carriage permit applied for by or on behalf of the [1][State] Government or a local authority with the concurrence of the [1][State] Government."

Amendment of section 58 of Act IV of 1939.

10. To section 58 of the said Act the following shall be added, namely.—

"(*3*) Notwithstanding anything contained in sub-section (*1*) above, the [1][State] Government may order a Regional Transport Authority or the Provincial Transport Authority to limit the period for which any permit or class of permits is issued to any period less than the minimum prescribed in the Act."

Insertion of new section 58A in Act IV of 1939.

11. After section 58 of the said Act, the following section shall be inserted, namely :—

Grant of permit to local authority.

"58A. Notwithstanding anything hereinbefore contained, the [1][State] Government may by order direct any Regional Transport Authority or the Provincial Transport Authority to grant a stage carriage permit to the [1][State] Government or any local authority specified in the order."

Amendment of section 62 of Act IV of 1939.

12. In section 62 of the said Act,—

(*i*) after the words "Regional Transport Authority" the words "or the Provincial Transport Authority" shall be inserted;

(*ii*) after clause (*c*) the following shall be inserted, namely :—

"

, or

(*d*) pending decision on an application for the grant or renewal of a permit,"

Amendment of section 68 of Act IV of 1939

13. After clause (*h*) of sub-section (*2*) of section 68 of the said Act, the following new clause shall be inserted, namely:—

"(*hh*) the compensation to be paid to a permit holder for cancellation of a permit in respect of a transport vehicle"

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] This was substituted for the figures, brackets and letter "64 (*a*)" by Bom. 21 of 1954, s. 3, Second Schedule.

The Bombay Harijan (Removal of Social Disabilities) Act, 1946 (Bom. X of 1947) at pages 2349–2354 has been repealed by the Untouchability (Offences) Act, 1955 (XXII of 1955), section 17.

THE BOMBAY INDUSTRIAL RELATIONS ACT, 1946.

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SCHEDULES I TO III.

BOMBAY ACT No. XI OF 1947.[1]

[THE BOMBAY INDUSTRIAL RELATIONS ACT, 1946.]

[*15th April 1947*]

Amended by Bom. 43 of 1948.
" " " 74 of 1948.
" " " 55 of 1949.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 63 of 1953.
" " " 49 of 1955.*

An Act to regulate the relations of employers and employees, to make provision for settlement of industrial disputes and to provide for certain other purposes.

WHEREAS it is expedient to provide for the regulation of the relations of employers and employees in certain matters, to consolidate and amend the law relating to the settlement of industrial disputes and to provide for certain other purposes ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called the Bombay Industrial Relations Act, 1946.

Extent, commencement and application.

2. (*1*) This Act extends to the whole of the [2][State] of Bombay.

(*2*) It shall come into force on such date as the [3][State] Government may by notification in the *Official Gazette* specify.

Bom. XXV of 1938.

(*3*) In the areas in which the Bombay Industrial Disputes Act, 1938, was in force immediately before the commencement of this Act, this Act shall apply to the industries to which the said Act applied :

Bom. LV of 1949. X of 1949.

[4][Provided that this Act shall cease to apply with effect from the date on which the Bombay Industrial Relations (Amendment) Act, 1949, comes into force, to the Imperial Bank of India and any banking company as defined in section 5 of the Banking Companies Act. 1949, having branches or other establishments in more than one [2][State].]

(*4*) The [3][State] Government may by notification in the *Official Gazette* apply all or any of the provisions of this Act to all or any other industries, whether generally or in any local area, as may be specified in such notification.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, p. 209 ; and for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. XI.

[2] This word was substituted for the word " Province" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word " Provincial ", *ibid.*

[4] This proviso was added by Bom. 55 of 1949, s. 2. Addition of the said proviso shall not affect any proceedings, other than a proceeding in respect of a reference made by the State Government or any officer or authority subordinate to it, pending before the Industrial Court or a Labour Court or the Registrar on the date on which Bom. 55 of 1949 comes into force and to which the Imperial Bank of India or a banking company referred to in the said proviso is a party, and such proceeding shall be continued and disposed of, as if Bom. 55 of 1949 had not been passed. (*Vide* s. 20 of Bom. 55 of 1949).

*Section 6 of Bom. 49 of 1955, reads as follows :—

Amendments made by sections 3 and 4 to come into force from the date on which principal Act came into force.

Bom. XI of 1947.

6. Notwithstanding anything contained in any judgment, decree or order of a Court, the amendments made by sections 3 and 4 of this Act shall be deemed to have come into force with effect from the date on which the Bombay Industrial Relations Act, 1946, came into force :

Provided that nothing in this section shall render any person liable to conviction of an offence in respect of any act committed by him before the date of the coming into force of this Act, if such act was not an offence under the said Act at the aforesaid date, but for the provisions of this section.

Definition.

3. In this Act unless there is anything repugnant in the subject or context—

(*1*) " approved list " means the list of approved unions maintained by the Registrar under section 12 ;

(*2*) " approved union " means a union on the approved list ;

(*3*) " arbitration proceeding " means—

(*i*) any proceeding under this Act before an arbitrator,

(*ii*) any proceeding before a Labour Court, [1][a Wage Board] or the Industrial Court in arbitration ;

(*4*) " arbitrator " means an arbitrator to whom a dispute is referred for arbitration under the provisions of this Act and includes an umpire ;

(*5*) " association of employers " means any combination of employers recognised by the [2][State] Government under section 27 ;

(*6*) " award " means any [3][interim, final or supplementary] determination in an arbitration proceeding of any industrial dispute or of any question relating thereto ;

(*7*) " board " means a Board of Conciliation appointed under section 7 ;

(*8*) " change " means an alteration in an industrial matter ;

[4][(*8A*) " closure " means the closing of any place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, whether such closing, suspension or refusal is or is not in consequence of an industrial dispute ;]

(*9*) " Commissioner of Labour " means an officer appointed by the [2][State] Government for the time being to be the Commissioner of Labour ; and in respect of any of the powers and duties of the Commissioner of Labour that may be conferred and imposed on any person, includes such person ;

(*10*) " conciliation proceeding " means any proceeding held by a Conciliator or a Board under this Act ;

(*11*) " Conciliator " means any Conciliator appointed under this Act and includes the Chief Conciliator or a Special Conciliator ;

(*12*) " Court of Enquiry " means a Court constituted under section 100 ;

(*13*) " employee " means any person employed to do any skilled or unskilled [5]* * * work for hire or reward in any industry, and includes—

(*a*) a person employed by a contractor to do any work for him in the execution of a contract with an employer within the meaning of sub-clause (*s*) of clause (14) :

(*b*) a person who has been dismissed or discharged from employment on account of any dispute relating to change in respect of which a notice is given or an application made under section 42 whether before or after his dismissal or discharge ;

[6][but does not include—

(*i*) a person employed primarily in a managerial, administrative, supervisory or technical capacity drawing basic pay (excluding allowances) of three hundred and fifty rupees or more per month ;

(*ii*) any other person or class of persons employed in the same capacity as those specified in clause (*i*) above irrespective of the amount of the pay drawn by such persons which the State Government may, by notification in the *Official Gazette*, specify in this behalf ;]

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[1] These words were inserted by Bom. 74 of 1948, s. 2(*a*).
[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[3] These words were substituted for the words " interim or final " by Bom. 55 of 1949, s. 3 (*1*).
[4] This clause was inserted by Bom. 74 of 1948, s. 2(*b*).
[5] The words " manual or clerical " were deleted by Bom. 63 of 1953, s. 2 (*1*) (*a*).
[6] This portion was added, *ibid.*, s. 2 (*1*) (*b*).

(*14*) "employer" includes—

(*a*) an association or a group of employers;

(*b*) any agent of an employer;

(*c*) where an industry is conducted or carried on by a department of the [1][State] Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of the department;

(*d*) where an industry is conducted or carried on by or on behalf of a local authority, the chief executive officer of the authority;

(*e*) where the owner of any undertaking in the course of or for the purpose of conducting the undertaking contracts with any person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the undertaking, the owner of the undertaking;

(*15*) "illegal change" means an illegal change within the meaning of sub-section (*4*) or (*5*) of section 46;

(*16*) "Industrial Court" means the Court of Industrial Arbitration constituted under section 10;

(*17*) "industrial dispute" means any dispute or difference between an employer and employee or between employers and employees or between employees and employees and which is connected with any industrial matter;

(*18*) "industrial matter" means any matter relating to employment, work, wages, hours of work, privileges, rights or duties of employers or employees, or the mode, terms and conditions of employment, and includes—

(*a*) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;

(*b*) all matters pertaining to the demarcation of functions of any employees or classes of employees;

(*c*) all matters pertaining to any right or claim under or in respect of or concerning a registered agreement or a submission, settlement or award made under this Act;

(*d*) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole;

(*19*) "industry" means—

(*a*) any business, trade, manufacture or undertaking or calling of employers;

(*b*) any calling, service, employment, handicraft, or industrial occupation or avocation of employees;

and includes—

(*i*) agriculture and agricultural operations;

(*ii*) any branch of an industry or group of industries which the [1][State] Government may by notification in the *Official Gazette* declare to be an industry for the purposes of this Act;

(*20*) "Joint Committee" means a Joint Committee constituted under section 48;

(*21*) "Labour Court" means a Labour Court constituted under section 9;

(*22*) "Labour Officer" means an officer appointed to perform the duties of a Labour Officer under this Act; and includes in respect of such powers and duties of the Labour Officer as may be conferred and imposed on him, an Assistant Labour Officer;

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*23*) "local area" means any area notified as a local area for the purposes of this Act;

(*24*) "lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of—

(*a*) compelling any of the employees directly affected by such closing, suspension or refusal or any other employees of his, or

(*b*) aiding any other employer in compelling persons employed by him, to accept any term or condition of or affecting employment;

(*25*) "member" means a person who is an ordinary member of a union and who has paid a subscription of not less than two annas [1][per calendar month]:

Provided that no person shall at any time be deemed to be a member if his subscription is in arrears for a period of three [2][calendar months] or more next preceding such time;

[3][*Explanation.*—A subscription for a particular calendar month shall, for the purposes of this clause, be deemed to be in arrears if such subscription is not paid by the end of the calendar month in respect of which it is due.]

(*26*) "occupation" means such section of an undertaking as is recognised under section 11 to be an occupation;

(*27*) "prescribed" means prescribed by rules made under this Act;

(*28*) "Primary Union" means a union for the time being registered as a Primary Union under this Act;

(*29*) "Qualified Union" means a union for the time being registered as a Qualified Union under this Act;

(*30*) "registered union" means a union registered under this Act;

(*31*) "Registrar" means a person for the time being appointed to be the Registrar of Unions under this Act; and includes in respect of such powers and duties of the Registrar as may be conferred and imposed on him, an Assistant Registrar of Unions.

(*32*) "representative of employees" means a representative of employees entitled [4][to appear or act] as such under section 30;

(*33*) "Representative Union" means a union for the time being registered as a Representative Union under this Act;

(*34*) "schedule" means a schedule appended to this Act;

(*35*) "settlement" means a settlement arrived at during the course of a conciliation proceeding; [5][and for the purposes of section 44B includes a settlement arrived at within two months from the date of the completion of any conciliation proceeding which has failed;]

[6][(*35A*) "stoppage" means a total or partial cessation of work by the employee in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work, whether such cessation or refusal is or is not in consequence of an industcial dispute;]

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[1] These words were substituted for the words "per month" by Bom. 63 of 1953, s. 2 (*2*) (*a*).
[2] These words were substituted for the word "months", *ibid.*, s. 2 (*2*) (*b*).
[3] This Explanation was inserted, *ibid*, s. 2(*2*) (*c*).
[4] These words were substituted for the words "to act" by Bom. 55 of 1949, s. 3 (*ii*).
[5] This portion was added by Bom. 63 of 1953, s. 2 (*3*).
[6] This Clause was inserted by Bom. 74 of 1948, s. 2 (*c*).

(*36*) "strike" means a total or partial cessation of work by the the employees in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work, where such cessation or refusal is in consequence of an industrial dispute ;

(*37*) "undertaking" means such concern in any industry as is recognised by the Registrar under section 11 ;

XVI of 1926. (*38*) "union" means a Trade Union of employees which is registered under the Indian Trade Unions Act, 1926 ;

[1][(*38A*) "Wage Board" means a Wage Board constituted under section 86A] ;

(*39*) "wages" means remuneration of all kinds capable of being expressed in terms of money and payable to an employee in respect of his employment or work done in such employment and includes—

(*i*) any bonus, allowances (including dearness allowance), reward or additional remuneration ;

(*ii*) the value of any house accommodation, light, water, medical attendance or other amenity or service ;

(*iii*) any contribution by the employer to any pension or provident fund ;

(*iv*) any travelling allowance or the value of any travelling concession ;

(*v*) any sum paid or payable to or on behalf of an employee to defray special expenses entailed on him by the nature of his employment ;

(*vi*) any gratuity payable on discharge.

CHAPTER II.

AUTHORITIES TO BE CONSTITUTED OR APPOINTED UNDER THIS ACT.

Commissioner of Labour.

4. (*1*) The [2][State] Government shall, by notification in the *Official Gazette*, appoint a person to be Commissioner of Labour.

(*2*) The [2][State] Government may by general or special order notified in the *Official Gazette* confer and impose all or any of the powers and duties of the Commissioner of Labour on any person whether generally or for any local area.

Registrar and Assistant Registrars.

5. (*1*) The [2][State] Government shall, by notification in the *Official Gazette*, appoint a person to be the Registrar of Unions for the whole of the [3][State].

(*2*) The [2][State] Government may, by similar notification, appoint a person to be the Assistant Registrar of Unions for any local area and may, by general or special order, confer on such person all or any of the powers of the Registrar of Unions under this Act.

Conciliators.

6. (*1*) The [2][State] Government shall appoint a person to be the Chief Conciliator. His jurisdiction shall extend throughout the [3][State].

(*2*) The [2][State] Government may, by notification in the *Official Gazette* appoint any person to be a Conciliator for any industry in a local area specified in the notification.

(*3*) The [2][State] Government may, by notification in the *Official Gazette*, appoint any person to be a Special Conciliator for such local area or for such industry for such local area or for such industrial dispute or class of disputes as may be specified in the notification.

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[1] This clause was inserted by Bom. 43 of 1948, s. 2.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word "Province", *ibid.*

Board of Conciliation.

7. (*1*) When an industrial dispute arises the [1][State] Government may, by notification in the *Official Gazette*, constitute a Board of Conciliation for promoting the settlement of such dispute.

(*2*) The Board shall consist of a Chairman who shall be an independent person and an even number of members. Every member shall be either an independent person or a person chosen by the [1][State] Government from a panel representing the interests of the employers or employees, provided that the number of persons chosen from panels representing employers and the number chosen from panels representing employees shall be equal. Such panels shall be constituted in the manner prescribed.

(*3*) If any vacancy occurs in the office of the Chairman or a member of the Board before the Board has completed its work, such vacancy shall be filled in the manner prescribed and the proceedings shall be continued before the Board as so reconstituted from the stage at which they were when the vacancy occurred.

Explanation.—For the purposes of this section a person shall be deemed to be an independent person if he is unconnected with the dispute for the settlement of which the Board is constituted and the industry directly affected by the dispute.

Labour Officers and Assistant Labour Officers.

8. (*1*) The [1][State] Government may, by notification in the *Official Gazette*, appoint Labour Officers for any local area or areas.

(*2*) The [1][State] Government may, by similar notification, appoint Assistant Labour Officers for any local area or areas, and may by general or special order confer on them all or any of the powers of the Labour Officer under this Act.

Labour Courts.

9. The [1][State] Government shall, by notification in the *Official Gazette*, constitute one or more Labour Courts having jurisdiction in such local areas as may be specified in such notification and shall appoint persons having the prescribed qualifications to preside over such Courts:

Provided that no person shall be so appointed unless he possessed the qualifications, other than the qualification of age, laid down [2][under article 234 of the Constitution], for being eligible to enter the [3]* * judicial service in the [4][State] of Bombay.

Industrial Court.

10. (*1*) The [1][State] Government shall constitute a Court of Industrial Arbitration.

(*2*) The Industrial Court shall consist of three or more members, one of whom shall be its President.

(*3*) Every member of the Industrial Court shall be a person who is not connected with any industry.

(*4*) Every member of the Industrial Court shall be a person who is or has been a judge of a High Court or is eligible for being appointed a judge of such Court:

Provided that one member may be a person not so eligible, if in the opinion of the [1][State] Government he possess expert knowledge of industrial matters.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words and figures were substituted for the words and figures "under section 255 of the Government of India Act, 1935", *ibid.*
[3] The words "subordinate civil" were omitted, *ibid.*
[4] This word was substituted for the word "Province", *ibid.*

CHAPTER III.

REGISTRATION OF UNIONS.

Recognition of undertakings and occupations.

11. The Registrar may after making such inquiry as he deems fit, recognise for the purposes of this Act—

(*1*) any concern in an industry to be an undertaking;

(*2*) any section of an undertaking to be an occupation.

Maintenance of registers and approved list.

12. It shall be the duty of the Registrar to maintain in such forms as may be prescribed—

(*a*) registers of unions registered by him under the provisions of this Act, and

(*b*) a list of approved unions.

Application for registration.

13. (*1*) Any union which has for the whole of the period of [2][three calendar months immediately preceding the calendar month in which it so applies] under this section a membership of not less than fifteen per cent. of the total number of employees employed in any industry in any local area may apply in the prescribed form to the Registrar for registration as a Representative Union for such industry in such local area.

(*2*) If in any local area no Representative Union has been registered in respect of an industry a union which has for the whole of the period of [2][three calendar months immediately preceding the calendar month in which it so applies] under this section a membership of not less than five per cent. of the total number of employees employed in such industry in the said area may apply in the prescribed form to the Registrar for registration as a Qualified Union for such industry in such local area.

(*3*) If in any local area, neither a Representative Union nor a Qualified Union has been registered in respect of an industry, a union having a membership of not less than fifteen per cent. of the total number of employees employed in any undertaking in such industry in the said area and complying with the conditions specified in section 23 as necessary for its being placed on the approved list may apply in the prescribed form to the Registrar for registration as a Primary Union for such industry in such local area.

Registration of union.

14. On receipt of an application from a union for registration under section 13 and on payment of the fee prescribed, the Registrar shall, if after holding such inquiry as he deems fit he comes to the conclusion that the conditions requisite for registration specified in the said section are satisfied and that the union is not otherwise disqualified for registration, enter the name of the union in the appropriate register maintained under section 12 and issue a certificate of registration in such form as may be prescribed:

Provided—

Firstly, that in any local area there shall not at any time be more than one registered union in respect of the same industry:

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words "three months next preceding the date of its so applying", by Bom. 63 of 1953, s. 3.

Secondly, that in any local area the Registrar shall in respect of an industry register a union fulfilling the conditions necessary for registration as a Representative Union in perference to one not fulfilling the said conditions, and failing such a union a union fulfilling the conditions necessary for registration as a Qualified Union in preference to one not fulfilling such conditions :

Thirdly, that where two or more unions fulfilling the conditions necessary for registration apply for registration in respect of the same industry in any local area, subject to the provisions of the second proviso, the union having the largest membership of employees employed in the industry shall be registered :

Fourthly, that the Registrar shall not register any union if he is satisfied that the application for its registration is not made *bona fide* in the interest of the employees but is made in the interest of the employers to the prejudice of the interest of the employees :

[1][*Fifthly*, that the Registrar shall not register any union if at any time, within six months immediately preceding the date of the application for registration or thereafter the union has instigated, aided or assisted the commencement or continuation of a strike or stoppage which has been held or declared to be illegal :

Sixthly, that the Registrar shall not register any union, if the rules of the union relating to its members contain any provision debarring any employee in the industry concerned from being a member of such union on the ground that he is or is not an employee in any particular undertaking in the said industry].

Cancellation of registration.

15. The Registrar shall cancel the registration of a union—

(*a*) if the Industrial Court directs that the registration of such union shall be cancelled ;

(*b*) if [2][after giving notice to such union to show cause why its registration should not be cancelled and] after holding such inquiry, if any, as he deems fit, he is satisfied—

(*i*) that it was registered under mistake, misrepresentation or fraud ; or

(*ii*) that the membership of the union has for a continuous period of three [3][Calendar] months fallen below the minimum required under section 13 for its registration :

Provided that where a strike or a closure not being an illegal strike or closure under this Act in an industry involving more than a third of the employees in the industry in the area has extended to a period exceeding fourteen days in any calendar month, such month shall be excluded in computing the said period of three months:

Provided further that the registration of a union shall not be cancelled under the provisions of this sub-clause unless its membership [4][for the calendar month in which show cause notice under this section was issued was] less than such minimum ; or

(*iii*) that the registered union being a Primary Union has after registration failed to observe any of the conditions specified in section 23 ; or

(*iv*) that the registered union is not being conducted *bona fide* in the interests of employees but in the interests of employers to the prejudice of the interest of employees ; or

(*v*) that it has instigated, aided or assisted the commencement or continuation of [5][a strike or a stoppage which has been held or declared to be illegal] ;

(*c*) if its registration under the Indian Trade Unions Act, 1926, is cancelled. XVI of 1926

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[1] This portion was added by Bom. 74 of 1948, s. 3

[2] These words were inserted by Bom. 63 of 1953, s. 4. (*1*).

[3] These words were substituted for the word "months," *ibid*, s. 4(*2*).

[4] These words were substituted for the words "at the time of the cancellation is" *ibid*. s. 4 (*3*).

[5] These words were substituted for the original by Bom. 74 of 1948, s. 4.

Registration of another union in place of existing registered union.

16. (*1*) If at any time any union (hereinafter in this section referred to as "applicant union") makes an application to the Registrar for being registered in place of the union already registered (hereinafter in this section referred to as "registered union") for an industry, in a local area, on the ground that it has a larger membership of employees employed in such industry the Registrar shall call upon the registered union by a notice in writing to show cause within [1][thirty days] of the receipt of such notice why the applicant union should not be registered in its place. An application made under this sub-section shall be accompanied by such fee as may be prescribed.

(*2*) The Registrar shall forward to the Labour Officer a copy of the said application and notice.

(*3*) If, on the expiry of the period of notice under sub-section (*1*), after holding such inquiry as he deemes fit, the Registrar comes to the conclusion that the applicant union complies with the conditions necessary for registration specified in section 13, and that its membership was during the whole of the period of [2][three calendar months immediately preceding the calendar month in which it made the application] under this section larger than the membership of the registered union, he shall subject to the provisions of section 14 register the applicant union in place of the registered union.

(*4*) Every application made under this section shall be published in the prescribed manner not less than 14 days before the expiry of the period of notice under sub-section (*1*).

Application for re-registration.

17. (*1*) Any union the registration of which has been cancelled on the ground that it was registered under a mistake or on the ground specified in sub-clause (*ii*) of clause (*b*) of section 15 may, at any time after three months from the date of such cancellation and on payment of such fees as may be prescribed, apply for re-registration. The provisions of sections 13 and 14 shall apply in respect of such application.

(*2*) A union the registration of which has been cancelled on any other ground shall not, save with the permission of the [3][State] Government, be entitled to apply for re-registration.

Liability of union or members not relieved by cancellation.

18. Notwithstanding anything contained in any law for the time being in force, the cancellation of the registration of a union shall not relieve the union or any member thereof from any penalty or liability incurred under this Act prior to such cancellation.

Periodical returns to be submitted to Registrar.

19. Every registered union shall submit to the Registrar on such dates and in such manner as may be prescribed, periodical returns of its membership.

Appeal to Industrial Court from order of Registrar cancelling registration.

20. (*1*) Any party to a proceeding before the Registrar may within 30 days from the date of an order passed by the Registrar under this Chapter, appeal against such order to the Industrial Court :

Provided that the Industrial Court may for sufficient reason admit any appeal made after the expiry of such period.

(*2*) The Industrial Court may admit an appeal under sub-section (*1*) if on a persual of the memorandum of appeal and the decision appealed against it finds that the decision is contrary to law or otherwise erroneous.

(*3*) The Industrial Court in appeal may confirm, modify or rescind any order passed by the Registrar and may pass such consequential orders as it may deem fit. A copy of the orders passed by the Industrial Court shall be sent to the Registrar.

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[1] These words were substituted for the words "one month" by Bom. 63 of 1953, s. 5 (*1*).
[2] These words were substituted for the words "three months immediately preceding the date of the application", *ibid*, s. 5 (2).
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Publication o forder.

21. Every order passed under section 14, 15 or 16 and every order passed in appeal under section 20 shall be published in the prescribed manner.

Registration of union for more than one local area.

22. Subject to the foregoing provisions of this Chapter, a union may in the prescribed manner be registered for an industry for more local areas than one.

CHAPTER IV.

APPROVED UNIONS.

Approved list; maintenance of: conditions for being entered in.

23. (*1*) On an application being made in the prescribed form, by a union for being entered in the approved list, the Registrar may after holding such inquiry as he deems fit enter the union in such list if he is satisfied that the union has made rules, that the provisions of the said rules are being duly observed by the unions, and that the rules provide that—

(*i*) its membership subscription shall be not less than four annas per month;

(*ii*) its executive committee shall meet at intervals of not more than three months;

(*iii*) all resolutions passed, whether by the executive committee or the general body of the union, shall be recorded in a minute book kept for the purpose;

(*iv*) an auditor appointed by Government may audit its accounts at least once in each financial year;

(*v*) every industrial dispute in which a settlement is not reached by conciliation shall be offered to be submitted to arbitration, and that arbitration under Chapter XI shall not be refused by it in any dispute;

(*vi*) no strike shall be sanctioned or resorted to by it unless all the methods provided by or under this Act for the settlement of an industrial dispute have been exhausted and the majority of its members vote by ballot in favour of such strike;

[1][(*vii*) no stoppage which is illegal under this Act shall be sanctioned or resorted to by it:]

Provided that the Registrar shall not enter a union in the approved list if he is satisfied that it is not being conducted *bona fide* in the interest of its members, but to their prejudice.

Explanation.—"Member" for the purposes of clause (*vi*) means a member of the union for the purposes of the Indian Trade Unions Act, 1926. XVI of 1926.

(*2*) The [2][State] Government may by notification in the *Official Gazette* direct that in the case of any union or class of unions specifiedi n the notification the membership subscription may, subject to a minimum of two annas per month, be less than four annas.

(*3*) Notwithstanding anything contained in sub-section (*1*) there shall not at any time be more than one approved union in respect of any industry in a local area.

(*4*) Any union complying with the conditions specified in sub-section (*1*) and having a larger membership in an industry in a local area than an approved union for such industry shall on application in that behalf be entered in the approved list in place of such approved union [3][by the Registrar after holding such inquiry as he deems fit.]

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[1] This clause was inserted by Bom. 74 of 1948, s. 5.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] These words were added by Bom. 63 of 1953, s. 6.

Approved union to continue to be so for altered local area for some time.

[1][23A. Notwithstanding anything contained in section 23, if there is any alteration in the local area or areas,—

(*a*) an approved union in an industry in the altered local area or areas, or

(*b*) where two or more approved unions exist in an industry in the altered local area or areas the union having the largest membership, whether by agreement of the other approved unions or as determined by the Registrar after such inquiry as he deems fit,

shall be deemed to be the approved union for the altered local area or areas, as the case may be for a period of twelve months from the date on which such alteration is effected, or where such approved union or any other union in the altered local area or areas makes an application under section 23 within such period until the disposal of such application by the Registrar.]

Removal from approved list.

XVI of 1926.

24. The Registrar shall remove a union from the approved list if its registration under the Indian Trade Unions Act, 1926, is cancelled; and may also so remove a union if after holding such inquiry if any as he deems fit, he is satisfied that it—

(*i*) was entered in the list under mistake, misrepresentation or fraud, or

(*ii*) has, since being included in the approved list, failed to observe the conditions specified in section 23.

Rights of Officers of approved unions.

25. [2][Such officers [3][members of the office staff] and members of an approved union as may be authorised by or under rules made in this behalf by the [4][State] Government shall, in such manner and subject to such conditions as may be prescribed, have a right, and shall be permitted by the employer concerned—

(*a*) to collect sums payable by members to the union on the premises where wages are paid to them;

(*b*) to put up or cause to be put up a notice board on the premises of the undertakings in which its members are employed and affix or cause to be affixed notices thereon;

(*c*) for the purpose of the prevention or settlement of an industrial dispute—

(*i*) to hold discussions on the premises of the undertaking with the employees concerned who are the members of the union;

(*ii*) to meet and discuss with an employer or any person appointed by him for the purpose the grievances of its members employed in his undertaking;

(*iii*) to inspect, if necessary, in any undertaking any place where any member of the union is employed.

Legal aid to approved unions at Government expense in important proceedings.

26. (*1*) An approved union entitled to appear—

(*a*) before a Labour Court in a proceeding for determining whether a strike, lock-out, [5][closure, stoppage] or change is illegal, or

(*b*) before the Industrial Court in a proceeding involving in the opinion of the Court an important question of law or fact,

may apply to the Court for the grant of legal aid at the expense of the [4][State] Government.

(*2*) A copy of every application made under sub-section (*1*) shall be sent to the Registrar with the least practicable delay.

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[1] This section was inserted, by Bom, 63 of 1953 s. 7.
[2] These words were substituted for the original by Bom. 43 of 1948, s. 3.
[3] These words were inserted by Bom. 63 of 1953, s. 8.
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] These words were inserted by Bom. 74 of 1948, s. 6.

(*3*) The Court to which an application is made under sub-section (*1*) may fix for the hearing of the application a day of which at least three days' clear notice shall be given to the Registrar.

(*4*) On the day fixed or as soon thereafter as may be convenient, the Court shall examine the witnesses, if any, produced by the union and the Registrar, and may also examine the officers of the union, and shall make a memorandum of the substance of such evidence

(*5*) The Court may after considering the evidence adduced under sub-section (*4*) either grant or refuse the application.

(*6*) The [1][State] Government may in consultation with the Industrial Court prescribe the fees for legal advice to, and appearance on behalf of a union before a Court.

(*7*) For the purpose of this section, legal aid includes advice to the union and the appearance before a Court of a legal practitioner on behalf of the union.

CHAPTER V.

REPRESENTATIVES OF EMPLOYERS AND EMPLOYEES, AND APPEARANCE ON THEIR BEHALF.

Recognition of combination of employers as association of employers.

27. (*1*) The [1][State] Government may from time to time by notification in the *Official Gazette*—

(*a*) recognise any combination of employers in an industry whether incorporated or not as an association of employers for the purposes of this Act, provided that one of the objects of such combination is the regulation of conditions of employment in the industry;

(*b*) withdraw any recognition granted under clause (*a*):

Provided that no recognition shall be withdrawn unless an opportunity has been given to such association of employers to be heard.

(*2*) In any proceeding under this Act an association of employers shall be entitled to represent—

(*a*) any employer who is a member of the association;

(*b*) any employer connected with the same industry not being a member of the association, who has intimated in writing to the prescribed authority that he has agreed to be represented by the association in such proceeding;

and any notice or intimation given by or to such association shall be deemed to have been given by or to every employer it is entitled to represent.

(*3*) Where more employers than one are affected or under any of the provisions of this Act deemed to be affected, and no association of employers is under sub-section (*2*) entitled to represent all of them, the representative determined in the prescribed manner shall be entitled to act as their representative.

Appearance on behalf of employees.

[2][**27A.** Save as provided in sections 32 and 33, no employee shall be allowed to appear or act in any proceeding under this Act except through the representative of employees.]

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] Section 27A was inserted by Bom. 55 of 1949, s. 4.

Election of representatives of employees.

28. (*1*) Where there is no Representative Union in respect of any industry in any local area, the employees in each undertaking in the industry and in each occupation therein may, in the prescribed manner, elect five persons from among themselves to represent them for the purposes of this Act :

Provided that no such persons shall be elected for any occupation the number of employees in which does not exceed ten.

(*2*) The persons, if any, elected under sub-section (*1*) shall function in such manner, as may be prescribed.

(*3*) Within [2][two years] from the date on which an election under sub section (*1*) is held, and within each succeeding [1][two years] thereafter, a fresh election shall be held :

Provided that any person may be re-elected at any such election.

(*4*) The employees may in the prescribed manner recall any or all of the persons elected under sub-section (*1*) or (*3*).

(*5*) Vacancies in the number of the persons elected under sub-section (*1*) or (*3*) shall be filled by election in the prescribed manner.

Act or decision of majority to be deemed to be act or decision of all.

29. Any act or decision of the majority of the persons elected under section 28 by any employees shall be deemed to be the act or decision of all the persons so elected by them.

Representative of employees.

30. The following shall be entitled [2][to appear or act] in the order of preference specified as the representative of employees in an industry in any local area—

(*i*) a Representative Union for such industry ;

(*ii*) a Qualified or Primary Union of which the majority of employees directly affected by the change concerned are members ;

(*iii*) any Qualified or Primary Union in respect of such industry authorised in the prescribed manner in that behalf by the employees concerned ;

(*iv*) the Labour Officer if authorised by the employees concerned ;

(*v*) the persons elected by the employees in accordance with the provisions of section 28 or where the proviso to sub-section (*1*) thereof applies, the employees themselves ;

(*vi*) the Labour Officer :

Provided—

Firstly, that the persons entitled [2][to appear or act] under clause (*v*) may authorise any Qualified or Primary Union in respect of such industry [2][to appear or act] instead of them :

Secondly, that where the Labour Officer is the representative of the employees, he shall not enter into any agreement under section 44 or settlement under section 58 unless the terms of such agreement or settlement, as the case may be, are accepted by them in the prescribed manner :

Thirdly, where in any proceeding the persons entitled [2][to appear or act] under clause (*v*) are more than five, the prescribed number elected from amongst them in the prescribed manner shall be entitled [2][to appear or act] instead.

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[1] These words were substituted for the words "twelve months" by Bom. 74 of 1948, s. 7.
[2] These words were substituted for the words "to act", by Bom. 55 of 1949, s. 6.

Registered or representative union to continue to be so for altered local area for some time.

[1][**31.** Notwithstanding anything contained in this Act, if there is any alteration in any local area or areas notified for the purposes of this Act,—

(*a*) a registered or representative union entitled under this Act to appear or act as a representative of employees in an industry immediately before the alteration in the local area or areas concerned, or

(*b*) where more than one registered or representative union are entitled to appear or act as representative of employees in an industry under this section, the union having the largest membership of employees employed in the industry, whether by agreement of the other registered or representative unions or as determined by the Registrar after such inquiry as he thinks fit,

shall be entitled to appear or act for the altered local area or areas, as the case may be, for a period of twelve months from the date on which such alteration is effected, or if an application under section 13 is made within such period by such union or any other union in the altered local area or areas, until the disposal of such application by the Registrar.]

Persons who may appear in proceedings.

[2][**32.** A Conciliator, a Board, an Arbitrator, a Wage Board, a Labour Court and the Industrial Court may, if he or it considers it expedient for the ends of justice, permit an individual, whether an employee or not, to appear in any proceeding before him or it :

Provided that no such individual shall be permitted to appear in any proceedings in which a Representative Union has appeared as the representative of employees.]

[3][Appearance for] employees.

33. Notwithstanding anything contained in any other provision of this Act, an employee [3][or a representative union] shall be entitled to appear through any person,

(*a*) in all proceedings before the Industrial Court ;

[4][(*aa*) in all proceedings before a wage board ;]

(*b*) in proceedings before a Labour Court for deciding whether a strike, lock-out, [5][closure or stoppage] or change or an order passed by an employer under the standing orders is illegal [6][or for deciding any industrial dispute referred to it under section 72] ;

(*c*) in such other proceedings as the Industrial Court may, on application made in that behalf, permit :

Provided that a legal practitioner shall not be permitted under clause (*c*) to appear in any proceeding under this Act except before a Labour Court [7][as provided in section 83A] or the Industrial Court :

[8][Provided further that no employee shall be entitled to appear through any person in any proceeding under this Act in which a Representative Union has appeared as the representative of employees].

CHAPTER VI.

Powers and Duties of Labour Officer.

Powers and duties of Labour Officer.

34. (*1*) A Labour Officer shall exercise the powers conferred, and peform the duties imposed on him by or under this Act.

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[1] Section 31 was substituted for the original by Bom. 63 of 1953, s. 9.
[2] Section 32 was substituted for the original by Bom. 55 of 1949, s. 7.
[3] These words were inserted by Bom. 43 of 1948, s. 4 (*a*).
[4] This Clause was inserted, *ibid*, s. 4 (*b*).
[5] These words were inserted by Bom. 74 of 1948, s. 8 (*a*).
[6] This portion was inserted, *ibid*, s. 8 (*b*).
[7] These words ,figures and letter were inserted by Bom. 55 of 1949, s. 8 (*i*).
[8] This proviso was added, *ibid*, s. 8 (*ii*).
[9] These words were substituted for the words "Representation of", *ibid*, s. 8 (*iii*).

(2) For the purpose of exercising such powers and performing such duties a Labour Officer may, subject to such conditions as may be prescribed, at any time during working hours, and outside working hours after reasonable notice, enter and inspect—

(a) any place used for the purpose of any industry ;

(b) any place used as the office of any union ;

(c) any premises provided by an employer for the residence or his employees, and shall be entitled to call for and inspect all relevant documents which he may deem necessary for the due discharge of his duties and powers under this Act.

(3) All particulars contained in or information obtained from any document inspected or called for under sub-section (2) shall, if the person in whose possession the document was so requires, be treated as confidential.

(4) A Labour Officer may, after giving reasonable notice, convene a meeting of employees for any of the purposes of this Act, on the premises where they are employed, and may require the employer to affix a written notice of the meeting at such conspicuous place in such premises as he may order and may also himself affix or cause to be affixed such notice. The notice shall specify the date, time and place of the meeting, the employees or class of employees affected, and the purpose for which the meeting is convened :

Provided that during the continuance of a look-out which is not illegal, no meeting of employees affected thereby shall be convened on such premises without the employer's consent.

(5) A Labour Officer shall be entitled to appear in any proceeding under this Act.

(6) It shall be the duty of the Labour Officer to—

(a) watch the interests of employees and promote harmonious relations between employers and employees ;

(b) investigate the grievances of employees and represent to employers such grievances and make recommendations to them in consultation with the employees concerned for their redress ;

(c) report to the [1][State] Government the existence of any industrial dispute of which no notice of change has been given, together with the names of the parties thereto :

Provided that the Labour Officer shall not—

(a) appear in any proceeding in which the employees who are parties thereto are represented by a Representative Union,

(b) where there is [2][an approved union] for an industry in a local area, except at the request of the union, act under clause (b) of sub-section (6) in respect of the employees.

CHAPTER VII.

STANDING ORDERS.

Settlement of Standing Orders by Commissioner of Labour.

35. (1) Within six weeks from the date of the application of this Act to an industry every employer therein shall submit for approval to the Commissioner of Labour in the prescribed manner draft standing orders regulating the relations between him and his employees with regard to the industrial matters mentioned in Schedule I :

Provided that where an undertaking in an industry is started after the application of this Act to such industry, the draft standing orders shall be submitted within six months of the starting of the undertaking.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words "a Representative Union" by Bom. 43 of 1948, s. 5.

(*2*) On receipt of the draft standing orders the Commissioner of Labour shall, after consulting in the prescribed manner the representative of employees and employers and such other interests concerned in the industry and making such inquiry as he deems fit, settle the said standing orders.

(*3*) The Commissioner of Labour shall forward a copy of the standing orders so settled to the Registrar, who shall within fifteen days of their receipt record them in the register kept for the purpose.

(*4*) Standing orders so settled shall come into operation from the date of their record in the register under sub-section (*3*).

(*5*) Until standing orders in respect of an undertaking come into operation under the provisions of sub-section (*4*), model standing orders, if any, notified in the *Official Gazette* by the [1][State] Government in respect of the industry shall apply to such undertaking.

Appeal to Industrial Court.

36. (*1*) Any person aggrieved by any standing orders settled by the Commissioner of Labour under sub-section (*2*) of section 35 may within thirty days from the date of their coming into operation appeal to the Industrial Court :

Provided that the Industrial Court may for sufficient cause, admit any appeal after the expiry of the period of thirty days.

(*2*) On an appeal being filed, the Industrial Court may on the application of any party to such appeal and on such conditions as it may think fit stay the operation of all or any of such standing orders until the appeal is decided.

(*3*) The Industrial Court in appeal may confirm, modify, add to or rescind all or any of such standing orders.

(*4*) The Industrial Court shall fix the date on which all or any of the standing orders settled by it under sub-section (*3*) shall come into operation.

(*5*) A copy of the orders passed by the Industrial Court under sub-section (*3*) shall be sent to the Registrar who shall record them in the register referred to in sub-section (*3*) of section 35.

Review.

37. (*1*) Any person aggrieved by a decision of the Industrial Court under section 36 may within thirty days from the date of the decision apply to the Industrial Court for a review of the said decision :

[2][Provided that the Industrial Court may for sufficient cause admit any such application after the expiry of the said period of thirty days.]

(*2*) The Industrial Court shall not grant such application unless it is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the party making the application or could not be produced by him at the time when its decision was made, or that there has been some mistake or error apparent on the face of the record or that there is any other sufficient reason for granting such application.

(*3*) The provisions of sub-sections (*2*), (*3*), (*4*) and (*5*) of section 36 shall, so far as may be, apply to proceedings under sub-section (*1*) in the same manner as they apply to an appeal against standing orders settled by the Commissioner of Labour under sub-section (*2*) of section 35.

No alteration in Standing Orders for one year.

38. (*1*) No alteration shall be made for a period of one year from the date of its coming into operation in any standing order settled under any of the foregoing provisions of this Chapter except by the Industrial Court in appeal or review, where such appeal or review lies.

[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] The proviso was added by Bom. 63 of 1953, s. 10.

(2) Any employer or employee may apply to the Commissioner of Labour for a change in—

(a) any standing order settled under sub-section (2) of section 35, which has not been appealed against, or

(b) any standing order settled in appeal under sub-section (3) of section 36, in respect of which no application for review has been made, or

(c) any standing order settled in review under section 37,

after the expiry of one year from the date of such standing order coming into operation.

Alteration in Standing Orders.

39. (1) On receipt of an application under sub-section (2) of section 38 the Commissioner of Labour shall, after giving the other party an opportunity of being heard and after consulting such other interests in the industry as in his opinion are affected, pass such order as he deems fit, and, if the order effects an alteration in any stan ing order, forward a copy of the standing order as so altered to the Registrar who shall, within fifteen days of its receipt record it in the register referred to in sub-section (3) of section 35. The standing order as so altered shall come into operation from the date of its record in the register.

(2) The provisions of sections 36, 37 and 38 shall, so far as may be, apply to an order passed by the Commissioner of Labour under sub-section (1) in the same manner as they apply to standing orders settled under sub-section (2) of section 35.

Standing Orders to be determinative.

40. (1) Standing orders in respect of an employer and his employees settled under this Chapter and in operation, or where there are no such standing orders, model standing orders, if any, applicable under the provisions of sub-section (5) of section 35 shall be determinative of the relations between the employer and his employees in regard to all industrial matters specified in Schedule I.

(2) Notwithstanding anything contained in sub-section (1) the [1][State] Government may refer, or an employee [2][or a representative union] may apply in respect of any dispute of the nature referred to in clause (a) of paragraph A of section 78, to a Labour Court.

Act XX of 1946 not to apply to certain industries.

XX of 1946.

41. The provisions of the Industrial Employment (Standing Orders) Act, 1946, shall not apply to any industry to which the provisions of this Chapter are applied.

CHAPTER VIII.

CHANGES.

Notice of change.

42. (1) Any employer intending to effect any change in respect of an industrial matter specified in Schedule II shall give notice of such intention in the prescribed form to the representative of employees. He shall send a copy of such notice to the Chief Conciliator, the Conciliator for the industry concerned for the local area, the Registrar, the Labour Officer and such other person as may be prescribed. He shall also affix a copy of such notice at a conspicuous place on the premises where the employees affected by the change are employed for work and at such other place as may be directed by the Chief Conciliator in any particular case.

(2) An employee desiring a change in respect of an industrial matter not specified in Schedule I or III shall give notice in the prescribed form to the employer through the representative of employees, who shall forward a copy of the notice to the Chief Conciliator, the Conciliator for the industry concerned for the local area, the Registrar, the Labour Officer and such other person as may be prescribed.

[1]This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2]These words were inserted by Bom. 63 of 1953, s. 11.

(*3*) When no settlement is arrived at in any conciliation proceeding in regard to any industrial dispute which has arisen in consequence of a notice relating to any change given under sub-section (*1*) or sub-section (*2*), no fresh notice with regard to the same change or a change similar in all material particulars shall be given before the expiry of two months from the date of he completion of the proceeding within the meaning of section 63. If, at any time after the expiry of the said period of two months, any employer or employee again desires the same change or a change similar in all material particulars, he shall give fresh notice in the manner provided in sub-section (*1*) or (*2*), as the case may be.

(*4*) Any employee [1][or a representative union] desiring a change in respect of (*i*) any order passed by [2][the] employer under standing orders, or (*ii*) any industrial matter arising out of the application or interpretation of standing orders, or (*iii*) an industrial matter specified in Sehedule III, shall make an application to the Labour Court :

Provided that no such application shall lie unless the employee [1][or a representative union] has in the prescribed manner approached [2][the] employer with a request for the change and no agreement has been arrived at in respect of the change within the prescribed period.

Notice of change when to be deemed general notice.

43. [3][(*1*) Where an employer gives notice of a proposed change under sub-section (*1*) of section 42 affecting some of the employees in an industry in a local area, any other employer or an association of employers or the representative of any employees engaged in the industry in the local area may, within seven days from the date of service of such notice, intimate in writing to such employer that other employers, or as the case may be, other employees, engaged in the industry in the area and mentioned in such intimation are affected by the change. The employer or employers concerned shall affix a copy of such intimation at a conspicuous place on every premises where the employees concerned are employed for work

(*2*) Where an employee gives notice of a proposed change under sub-section (*2*) of section 42 affecting one or some of the employers in an industry in a local area the representative of employees or any employer or an association of employers engaged in the industry in the local area may, within seven days from the date of service of such notice, give a special notice in writing to the employee and his employer, or as the case may be, the representative of employees, that other employees or as the case may be, other employers, engaged in the industry in the area and mentioned in such special notice, are affected by the change. The employer or employers concerned shall affix a copy of such special notice at a conspicuous place on every premises where the employees concerned are employed for work.]

(*3*) A copy of every intimation under sub-section (*1*) and special notice under sub-section (*2*) shall be sent to the Commissioner of Labour, the Chief Conciliator, the Conciliator for the industry concerned for the local area, the Registrar, the Labour Officer and such other person as may be prescribed.

(*4*) On an intimation being given under sub-section (*1*) or a special notice being given under sub-section (*2*) and the provisions of sub-section (*3*) being complied with, the employees mentioned in the intimation or employers mentioned in the special notice, as the case may be, shall also, for the purposes of this Act, be deemed

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[1] These words were inserted by Bom. 43 of 1948. s. 6 (*a*).
[2] This word was substituted for the word "his". *ibid.* s. 6(*b*).
[3] Sub-sections (*1*) and (*2*) were substituted for the original by Bom. 74 of 1948, s. 9

to be affected by such change, and to have been given notice under sub-section (*1*) or (*2*), as the case may be, of section 42.

(*5*) Where an employer or an employee gives a notice of a proposed change under sub-section (*1*) or sub-section (*2*), as the case may be, of section 42, and such change, in the opinion of the [1][State] Government affects the majority of employers or employees engaged in an industry or occupation in the local area, the [1][State] Government may by notification in the *Official Gazette* declare that the whole of such industry or occupation, as the case may be, is affected by such change and thereupon it shall be deemed to be so affected.

Agreement regarding change.

44. (*1*) If within seven days from the date of service of a notice under section 42 or an intimation or special notice under section 43 or the date of publication of a notification under sub-section (*5*) of section 43, or within such further period as may be mutually fixed by the employers affected and the representative of the employees affected an agreement is arrived at in regard to the proposed change, a memorandum of such agreement signed by the employer or employers as well as by the representative of employees shall be forwarded in the prescribed manner to the Chief Conciliator, the Registrar and the Labour Officer:

Provided that where the employees deemed to be affected under sub-section (*4*) of section 43 are in the opinion of the [1][State] Government the majority of the employees in the industry, or the whole industry is deemed to be affected under sub-section (*5*) thereof, the Labour Officer shall not enter into any agreement under this sub-section.

(*2*) On receipt of such memorandum of agreement the Registrar shall enter the same in a register maintained for the purpose unless on inquiry he is satisfied that the agreement was in contravention of any of the provisions of this Act or was the result of mistake, misrepresentation, fraud, undue influence, coercion or threat.

(*3*) An appeal shall lie to the Industrial Court against an order of the Registrar refusing to register an agreement under sub-section (*2*). The provisions of section 20 shall apply to such appeal.

Registration of agreements under section 42 (*4*)

[2][**44A.** Where an agreement referred to in the proviso to sub-section (*4*) of section 42 is arrived at, a memorandum of such agreement may be forwarded by either party to the Registrar by registered post. The provisions of sub-sections (*2*) and (*3*) of section 44 shall then apply for registration of such agreement.]

Certain settlements deemed to be agreements.

[2][**44B.** Where a settlement is arrived at within two months from the date of the completion of any conciliation proceedings, such settlement shall be deemed to be an agreement for the purposes of section 44 and the provisions of the said section 44 shall apply for registration of such agreement.]

Agreement to come into force.

45. An agreement registered under section 44 shall come into operation on the date specified therein or if no date is so specified on its being recorded by the Registrar.

Illegal change.

46. (*1*) No employer shall make any change in any standing order settled under Chapter VII without following the procedure prescribed therefo in this Act.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] Sections 44A and 44B were inserted by Bom. 63 of 1953, s. 12.

(*2*) No employer shall make any change in any industrial matter mentioned in Schedule II—

[1][(*ai*) before giving notice of the change as required by the provisions of sub-section (*1*) of section 42 ;]

(*i*) within the period provided for in sub-section (*1*) of section 44 unless an agreement is arrived at ;

[2][(*ii*) where no agreement is arrived at before the completion of the conciliation proceedings and during the period of ten days thereafter ;]

(*iii*) where no settlement is arrived at, after two months from the date of the completion of the proceedings before the Conciliator ;

(*iv*) in cases where there is a registered submission or in which the dispute has been referred to arbitration, before the date on which the award comes into operation ;

[3][(*v*) in cases where such matter or a dispute regarding such matter has been referred to a Wage Board for decision, before the date on which the decision comes into operation.]

(*3*) No employer shall make any such change in contravention of the terms of a settlement, [4][effective award, registered agreement or effective order or decision of a Wage Board].

(*4*) Any change made in contravention of the provisions of sub-section (*1*), (*2*) or (*3*) shall be illegal.

(*5*) Failure to carry out the terms of any settlement, award [5][registered agreement or effective order or decision of a Wage Board], [6][a Labour Court or the Industrial Court affecting industrial matters] shall be deemed to be an illegal change.

Employer to make change etc. within certain time.

47. An employer required under the terms of any [7][effective decision or order of a Wage Board,] Labour Court or the Industrial Court to carry out a change or withdraw an illegal change, shall comply with such requirement within such time as the [8][Wage Board or] Court giving or making the decision or order prescribes and where no time is prescribed by it within forty-eight hours of the giving or making of the decision or order [9][or as the case may be, of the declaration referred to in section 76A or 86F].

CHAPTER IX.

JOINT COMMITTEES.

Constitution of Joint Committees.

48. (*1*) A Joint Committee may be constituted for an undertaking or occupation with the consent of the employer and the registered union for the industry for the local area [10][and shall be constituted irrespective of such consent, if the [11][State] Government on an application made to it in this behalf by the registered union so directs] :

Provided that no Joint Committee shall be so constituted in respect of an undertaking or occupation where there is no representative union, unless not less than fifteen per cent. of the employees are members of a registered union.

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1 This clause was inserted by Bom. 63 of 1953, s. 13 (*a*).
2 This clause was substituted for the original, *ibid.*, s. 13 (*b*).
3 This clause was inserted by Bom. 43 of 1948, s. 7 (*i*).
4 These words were substituted for the original, *ibid.*, s. 7 (*ii*).
5 These words were substituted for the original, *ibid.*, s. 7 (*iii*).
6 These words were inserted by Bom. 55 of 1949, s. 9.
7 These words were substituted for the original by Bom. 43 of 1948, s. 8 (*i*).
8 These words were inserted, *ibid.*, s. 8 (*ii*).
9 This portion was added, *ibid.*, s. 8 (*iii*).
10 This portion was inserted, *ibid.*, s. 9 (*i*).
11 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*2*) On application made in this behalf by the employer or the Union to the Registrar, a Joint Committee shall be entered in a list of Joint Committees maintained by him, and thereupon all the provisions of this Act shall apply to the Joint Committee.

[1][(*3*) Every Joint Committee shall stand dissolved whenever the condition specified in the proviso to sub-section (*1*) ceases to be complied with; and a Joint Committee constituted with the consent of the employer and the registered union shall also stand dissolved on the expiry of the period of a three months' notice in that behalf being given by the employer to the union, or by the union to the employer.]

Composition of Joint Committee.

49. (*1*) A Joint Committee shall consist of such number of members as may be prescribed; half the number shall in the prescribed manner be nominated by the union [2][from among employees in the undertaking or occupation concerned], and the other half appointed by the employer concerned.

[3][Where the Joint Committee is to be constituted in pursuance of a direction of the [4][State] Government on an application made by the registered union, the union and the employer shall nominate and appoint the members within such period as the [4][State] Government may by order specify. A copy of such order shall, as soon as may be, be given to the union and the employer in the manner prescribed.]

(*2*) A chairman shall be appointed in accordance with rules made in this behalf. He shall perform his duties in the prescribed manner.

Proceedings of Joint Committee.

50. (*1*) A representative of the registered union may attend any meeting of the Joint Committee, to advise the members representing the employees.

(*2*) The proceedings of the Joint Committee shall be conducted in the manner prescribed.

(*3*) The proceedings shall be recorded in a minute book [5][in a language understood by a majority of the employees].

Proposal for change.

51. (*1*) Any member of a Joint Committee may move a proposal regarding any change other than a change in any standing order or regarding any other matter affecting the relations between the employer and the employees in the undertaking or occupation, as the case may be, for which the Committee is constituted:

Provided that no such proposal shall be moved for a change in respect of any industrial matter if such change could not for the time being be made under this Act.

(*2*) The decision of the Joint Committee regarding every change proposed under the provisions of sub-section (*1*) together with all necessary particulars regarding such change shall within forty-eight hours be communicated to the registered union and the employer, as well as the Labour Officer and the Commissioner of Labour.

Special intimation for change and special application to Labour Court.

52. (*1*) Where an agreement is arrived at between the employer and the union regarding any change proposed in the Joint Committee under sub-section (*1*) of section 51, a memorandum of such agreement signed by them shall be forwarded by the employer in the prescribed manner to the Registrar and the Labour Officer and all the provisions of this Act shall apply to such agreement as they would apply in respect of an agreement under sub-section (*1*) of section 44.

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[1] This sub-section was substituted for the original, by Bom. 43 of 1948, s. 9.(ii).
[2] These words were inserted by Bom. 74 of 1948, s. 10.
[3] This portion was inserted by Bom. 43 of 1948, s. 10.
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] This portion was added by Bom. 63 of 1953, s. 14.

(*2*) If within seven days from the receipt of a decision under sub-section (*2*) of section 51, the employer or the union sends an intimation (hereinafter called special intimation) in the prescribed form to the Conciliator for the industry for the local area stating that the change proposed in the Joint Committee, being a change in respect of a matter not specified in Schedule I or III, or such change with specified alterations, should be made, and that no agreement in respect thereof has been arrived at between the union and the employer, the Conciliator shall forthwith enter the case as an industrial dispute in the register kept under section 55, and the provisions of this Act shall apply to it as if a statement were submitted under section 54.

(*3*) If within seven days from the receipt of a decision under sub-section (*2*) of section 51 regarding a matter specified in clause (*a*) of paragraph A of sub-section (*1*) of section 78 the employer or union sends a special application in respect of such matter to the Labour Court having jurisdiction, the Labour Court shall forthwith proceed to decide the dispute under the provisions of Chapter XII.

(*4*) A copy of every special intimation sent under sub-section (*2*) shall be forwarded to the Chief Conciliator, the Conciliator for the industry for the local area concerned, the Registrar, the Labour Officer and such other person as may be prescribed.

Decision of respective representatives binding on union and employer.

53. (*1*) The union may authorise such proportion (hereinafter called the authorised proportion), not being less than three-fourths of the members representing the employees on the Joint Committee, to accept or reject on its behalf any proposal or class of proposals moved in the Committee.

(*2*) The employer may authorise a proportion of the members representing him on the Committee to accept or reject on his behalf any proposal or class of proposals moved in the Committee.

(*3*) For a period of two months after a decision of the Committee, no notice of change under section 42, or special intimation or application under section 52 shall be given or made—

(*a*) where the union acts under sub-section (*1*), by the employees concerned or the union, contrary to the decision of the authorised proportion accepting a proposal in respect of which it is authorised; and

(*b*) where the employer acts under sub-section (*2*), by the employer, contrary to the decision of the authorised proportion of his representatives.

(*4*) The union whenever it acts under sub-section (*1*), and the employer whenever he acts under sub-section (*2*), shall communicate the fact to the Chief Conciliator, the Conciliator for the industry for the local area concerned and the Registrar.

CHAPTER X.

Conciliation Proceedings.

Report of dispute to be sent to Registrar, Chief Conciliator and Conciliator.

54. (*1*) If any proposed change in respect of which notice is given under section 42, or an intimation or special notice is given under section 43 is objected to by the employer or the employee, as the case may be, the party who gave such notice, intimation or special notice shall, if he still desires that the change should be effected, forward to the Registrar, the Chief Conciliator and the Conciliator for the local area for the industry concerned a full statement of the case in the prescribed form within fifteen days from the date of service of such notice, intimation or special notice on the other party or within one week of the expiry of the period fixed by both the parties under sub-section (*1*) of section 44 for arriving at an agreement.

Explanation.—For the purposes of this sub-section a change shall be deemed to be objected to by the employer or employee, as the case may be, if within seven days from the date of service of such notice, intimation or special notice or within the period fixed by both the parties under sub-section (*1*) of section 44 for arriving at an agreement a memorandum of agreement has not been forwarded to the Registrar under the said sub-section.

(*2*) When a notification is issued under sub-section (*5*) of section 43 in respect of such change, any employer or employee in the industry may within seven days from the date of publication of such notification forward such statement to the said officers.

Commencement of conciliation proceeding.

55. On receipt of the statement of the case under section 54 the Conciliator shall, except in a case in which by reason of the provisions of section 64 a conciliation proceeding cannot be commenced, [1][within a week] enter the industrial dispute in the register kept for the purpose and thereupon the conciliation proceeding shall be deemed to have commenced from [2][the date of such entry in the register, which date shall be communicated by him to the parties concerned].

Conciliation proceeding.

56. (*1*) The Conciliator shall hold the conciliation proceeding in the prescribed manner.

(*2*) It shall be the duty of the Conciliator to endeavour to bring about the settlement of the industrial dispute and for this purpose the Conciliator shall enquire into the dispute and all matters affecting the merits thereof and may do all such thing as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute and may adjourn the conciliation proceeding for any period sufficient in his opinion to allow the parties to arrive at a settlement or for any other reason.

Power of Chief Conciliator to intervene.

57. (*1*) It shall be lawful for the Chief Conciliator to intervene or to direct any Conciliator to intervene at any stage in any conciliation proceeding held by another Conciliator, and thereafter the Chief Conciliator or the Conciliator so directed shall hold the conciliation proceeding with or without the assistance of the Conciliator.

(*2*) The Chief Conciliator may from time to time issue such directions as he deems fit to any Conciliator at any stage of a conciliation proceeding.

Settlement and report.

58. (*1*) If a settlement of an industrial dispute is arrived at in a conciliation proceeding, a memorandum of such settlement shall be drawn up in the prescribed form by the Conciliator and signed by the employer and the representatives of employees. The Conciliator shall send a report of the proceeding along with a copy of the memorandum of settlement to the Registrar and the Chief Conciliator. The Registrar shall record such settlement in the register of agreements and shall then publish it in the prescribed manner. The change, if any, agreed to by such settlement shall come into operation from the date agreed upon in such settlement where no such date is agreed upon from the date on which it is recorded in the register.

[1] These words were substituted for the word "forthwith" by Bom. 63 of 1953, s. 15(*1*).
[2] These words were substituted for the words "the date of such receipt", *ibid.*, s. 15 (*2*).

(*2*) If no such settlement is arrived at, the Conciliator shall, as soon as possible after the close of the proceeding before him, send a full report to the Chief Conciliator stating the steps taken by him for ascertaining the facts and circumstances relating to the dispute and the reasons on account of which, in his opinion, settlement could not be arrived at:

Provided that where such Conciliator is the Chief Conciliator such report shall be forwarded by him to the [1][State] Government.

(*3*) The Chief Conciliator shall forward the report submitted to him under sub-section (*2*) to the [1][State] Government with such remarks as he deems fit.

(*4*) The [1][State] Government shall publish the report of the Conciliator or Chief Conciliator forwarded to it under the proviso to sub-section (*2*) or under sub-section (*3*) except in cases in which the dispute is referred to a Board, or the parties to the dispute enter into a submission in respect of it.

[2][(*4A*) Notwithstanding anything contained in this section where an industrial dispute is settled in regard to some of the industrial matters included therein and has not been settled in regard to others and the parties agree in writing that the settlement shall take place in regard to the industrial matters so settled, the settlement of the said industrial matter shall be registered and a report of the industrial matters not settled shall be sent in accordance with the provisions of this section.]

(*5*) Before the close of the proceeding before him the Conciliator shall ascertain from the parties whether they are willing to submit the dispute to arbitration.

(*6*) (*a*) Notwithstanding anything contained in the foregoing sub-sections, if at any stage of a conciliation proceeding the parties agree in writing to submit the dispute to arbitration, the agreement shall be deemed to be a submission within the meaning of section 66.

(*b*) Where the agreement provides for arbitration either by a Labour Court or by the Industrial Court, the Conciliator shall forthwith refer the dispute to the Labour Court or the Industrial Court, as the case may be.

Reference to Board.

59. (*1*) The [1][State] Government may at any time, and where either prior to the commencement of a proceeding before the Conciliator or after his failure to bring about a settlement, the parties agree, shall refer the dispute to a Board and thereupon conciliation proceedings before the Board shall be deemed to have commenced from the date of such reference.

(*2*) On such reference being made, the Board shall give notice in the prescribed manner to the parties to the dispute to appear before it at such time and place as may be specified in the notice. A copy of such notice shall be sent to the Labour Officer.

(*3*) On the date specified in the notice or on such other date as may be fixed by the Board, the Board shall hold the conciliation proceeding. It shall be the duty of the Board to endeavour to bring about a settlement of the industrial dispute and the provisions of sections 55, 56 and 58 shall, so far as may be, apply to the proceeding before the Board.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This sub-section was inserted by Bom. 74 of 1948, s. 11.

Procedure and powers of Conciliator and Board.

60. (*1*) A Conciliator or a Board, as the case may be, shall subject to the provisions of this Act, follow in a conciliation proceeding such procedure as may be prescribed.

(*2*) The proceedings before a Conciliator shall be held *in camera* and any proceedings before a Board may be held in public or *in camera* as the Board may decide.

(*3*) If a party to an industrial dispute or a witness or any other person giving any information or producing any document in a conciliation proceeding makes a request in writing to the Conciliator or the Board, as the case may be, that such information or the contents of such document be treated as confidential, the Conciliator or the Board shall direct that such information or document be treated as confidential:

Provided that the Conciliator or Board may permit the information or the contents of the document to be disclosed to the other party.

(*4*) Save as provided in sub-section (*3*) a Conciliator or any member of a Board or any person present at or concerned in the conciliation proceeding shall not disclose any information or the contents of any document in respect of which a request has been made under sub-section (*3*) without the consent in writing of the party making the request under the said sub-section.

(*5*) Nothing in this section shall apply to the disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or under any other law for the time being in force.

Reference to Industrial Court by Conciliator or Board.

61. A Conciliator or a Board may refer any question of law arising before him or it in any conciliation proceeding, to the Industrial Court for decision. Any order passed by the Conciliator or the Board in such proceeding shall be in accordance with such decision.

Time limit for stages of conciliation proceeding.

62. (*1*) The [1][State] Government shall by general or special order notified in the *Official Gazette* fix a time limit for the completion of each stage of the conciliation proceedings provided for under this Chapter:

Provided that the total period fixed for the completion of all stages of a conciliation proceeding shall not exceed one month from the date on which the dispute is entered by the Conciliator in the register under section 55 or is referred to a Board under section 59:

Provided further that the [1][State] Government may extend the said period of one month by a further period of a fortnight at a time but not exceeding in any case two months in the aggregate.

(*2*) Notwithstanding anything contained in sub-section (*1*), the parties to any industrial dispute may in any case agree to extend the period fixed for the completion of any stage of a conciliation proceeding by any further period and such further period shall be excluded in computing the period of time limit referred to in the said sub-section.

[2][Provided that the total period for the completion of a conciliation proceeding including the period of extension mutually agreed to by the parties shall not exceed one year:

Provided further that the State Government may extend the said period of one year by a further period of a month at a time but not exceeding in any case two months in the aggregate.]

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These provisos were added by Bom. 65 of 1953, s. 16 (*1*)

[1][(3) Where a Conciliator or a Board refers under section 61 a question of law to the Industrial Court for its decision, the period commencing from the date of such reference to the date of communication of the decision of the Industrial Court to the Conciliator or the Board, as the case may be, shall be excluded in computing the time-limit referred to in sub-section (1).]

Completion of conciliation proceeding.

63. A conciliation proceeding shall be deemed to have been completed—

(*i*) when a memorandum of the settlement arrived at in such proceeding is signed by the parties under sub-section (*1*) of section 58, or

(*ii*) when the parties agree in writing to submit the dispute to arbitration, or

(*iii*) if no settlement is arrived at when the report of the Conciliator or the Board is published by the [2][State] Government, or

(*iv*) when the time limit fixed for the completion of such proceeding under section 62 has expired.

[3][*Explanation.*—When an industrial dispute is settled in regard to some of the industrial matters included therein, the conciliation proceeding in regard to those matters only shall be deemed to have been completed within the meaning of this section.]

Conciliation proceedings not to be commenced or continued in certain cases.

64. No conciliation proceeding in respect of an industrial dispute shall—

(*a*) be commenced if—

(*i*) the representative of employees directly affected by the the dispute is a registered union which is a party to a submission relating to such dispute or a dispute relating to an industrial matter similar to that regarding which the dispute has arisen;

(*ii*) it has been referred to arbitration under the provisions of section 72 [4][or 73];

(*iii*) by reason of a direction issued under sub-section (*2*) of section 114 [5][or by reason of any of the other provisions of this Act] the employers and employees concerned are in respect of the dispute bound by a registered agreement, settlement, submission or award;

(*b*) be continued after the date on which—

(*i*) a submission relating to such dispute is entered into by the employer and employees concerned under section 58 or 66;

(*ii*) the dispute is referred to arbitration under section 72 [6][, 73 or 73A]; or

(*iii*) the direction referred to in sub-clause (*iii*) of clause (*a*) is issued.

Conciliation proceeding discontinued deemed to be completed.

65. A conciliation proceeding which is discontinued under clause (*b*) of section 64 shall be deemed to have been completed on the date referred to in the said clause, and the provisions of section 58 with regard to the submission, forwarding and publication of reports shall apply to such conciliation proceeding.

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[1] This sub-section was inserted by Bom. 63 of 1953, s. 16 (*2*).

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This Explanation was added by Bom. 74 of 1948, s. 12.

[4] This word and figures were substituted for the figures, word and letter "73 or 73A', by Bom. 63 of 1953, s. 17.

[5] These words were inserted by Bom. 55 of 1949, s. 10 (*i*).

[6] The figures, word and letter "73 or 73A" were substituted for the word and figures "or 73" by Bom. 55 of 1949, s. 10 (*ii*).

CHAPTER XI.

ARBITRATION.

Submission.

66. (*1*) Any employer and a Representative Union or any other reg stered union which is a representative of employees may, by a written agreement, agree to submit any present or future industrial d.spute or class of such disputes to the arbitration of any person whether such arb trator is named in such agreement or not. Such agreement shall be called a subm.ssion.

(*2*) Such submission may provide that the dispute shall be referred to the arb.tration of a Labour Court or the Industrial Court:

[1][Provided that no such submission shall provide for reference of any such dispute to the arbitration of the Industrial Court where under any provision of this Act it is required to be referred to the Labour Court for its decision.]

(*3*) A copy of every such submission shall be sent to the Registrar who shall register it in the register to be maintained for the purpose and shall publish it in such manner as may be prescribed.

Submission when revocable.

67. Every submission shall in the absence of any provision to the contrary contained therein be irrevocable:

Provided that a submission to refer future disputes to arbitration may at any time be revoked by any of the parties to such submission by giving the other party six months' notice in writing;

Provided further that before the expiry of the said period of six months the parties may agree to continue the submission for such further period as may be agreed upon between them.

Proceedings in arbitration.

68. The proceedings in arbitration under this Chapter shall be in accordance with the provisions of the Arbitration Act, 1940, in so far as they are applicable and the powers which are exercisable by a Civil Court under the said provisions, shall be exercisable by a Labour Court and the Industrial Court.

X of 1940.

Special case to be stated to Industrial Court.

69. The arbitrator may refer any question of law arising before him in any proceeding under this Act to the Industrial Court for its decision. Any award made by the arbitrator shall be in accordance with such decision.

Award by arbitrator.

70. The arbitrator shall, after hearing the parties concerned, make an award which shall be signed by him.

Dispute to be referred to Labcur Court and Industrial Court if no arbitrator appointed.

71. Notwithstanding anything contained in this Chapter, if no provision has been made in any submission for the appointment of an arbitrator or where by reason of any circumstance no arbitrator is appointed, such dispute shall be referred to the arbitration of a Labour Court or the Industrial Court, as the [2][State] Government may determine.

Disputes between employees and employees may be refered by [2][State] Government to arbitration of Labour Court or Industrial Court.

72. (*1*) Notwithstanding anything hereinbefore contained the [2][State] Government may, at any time on the report of the Labour Officer or on its own motion, refer any industrial dispute between employees and employees to the arbitration of a Labour Court or the Industrial Court.

(*2*) The provisions of this Chapter with such modifications as may be prescribed shall apply to such arbitration.

(*3*) The employers of such employees shall in the prescribed manner be made parties to such arbitration.

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[1] This proviso was added by Bom. 43 of 1948, s. 12.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[1][State] Government may refer Industrial dispute to Industrial Court for arbitration.

73. Notwithstanding anything contained in this Act, the [1][State] Government may, at any time, refer an industrial dispute to the arbitration of the Industrial Court, if on a report made by the Labour Officer or otherwise it is satisfied that—

(*1*) by reason of the continuance of the dispute—

(*a*) a serious outbreak of disorder or a breach of the public peace is likely to occur ; or

(*b*) serious or prolonged hardship to a large section of the community is likely to be caused ; or

(*c*) the industry concerned is likely to be seriously affected or the prospects and scope for employment therein curtailed ; or

(*2*) the dispute is not likely to be settled by other means ; or

(*3*) it is necessary in the public interest to do so.

Reference to arbitration by unions.

[2][**73A.** Notwithstanding anything contained in this Act, a registered union which is a representative of employees and which is also an approved union may refer any industrial dispute for arbitration to the Industrial Court :

Provided that no such dispute shall be referred to the Industrial Court,—

(*i*) after two months from the date of the completion of the proceedings before the Conciliator ;

(*ii*) where the employer has offered in writing before the Conciliator to submit the dispute to arbitration under this Act and the union has not agreed to do so ;

(*iii*) unless the dispute is first submitted to the Conciliator and the conciliation proceedings are completed or the Conciliator certifies that the dispute is not capable of being settled by conciliation :

Provided further that no such dispute shall be referred to the Industrial Court where under any provision of this Act it is required to be referred to the Labour Court for its decision.]

Notice of award to parties.

74. (*1*) The arbitrator, Labour Court or Industrial Court, as the case may be, shall forward copies of the award made by him or it to the parties, the Commissioner of Labour and the Registrar.

(*2*) On receipt of such award, the Registrar shall enter it in the register kept for the purpose and shall publish it in such manner as may be prescribed.

Date on which award shall come into operation.

75. The award shall come into operation on the date specified in the award or where no such date is specified therein on the date on which it is published under section 74.

Completion of arbitration proceeding.

76. The arbitration proceeding shall be deemed to have been completed when the award is published under section 74.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] Section 73A was substituted for the original by Bom. 63 of 1953, s. 18.

Procedure to give effect to awards affecting [2][State] Government.

[1][76A. (*1*) Notwithstanding anything contained in sections 74 to 76 (both inclusive) where the award affects an industry conducted or carried on by a department of the [2][State] Government, the award shall not be effective except in accordance with the procedure set out in sub-sections (*2*) and (*3*).

(*2*) The arbitrator, Labour Court or Industrial Court, shall, as soon as practicable on the conclusion of its proceedings, submit its award to the [2][State] Government, and the [2][State] Government shall, by order in writing, declare the [3][award] to be binding:

Provided that where in the opinion of the [2][State] Government it would be inexpedient on public grounds to give effect to the whole or any part of the award, the [2][State] Government shall, on the first available opportunity, lay the [3][award] together with the statement of its reasons for not making a declaration as aforesaid before the Legislative Assembly of the [4][State] and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the [3][award]; and the Legislative Assembly may by its resolution confirm, modify or reject the award.

(*3*) On the passing of a resolution under the proviso to sub-section (*2*), unless the award is rejected thereby, the [2][State] Government shall, by order in writing, declare the award as confirmed or modified by the resolution, as the case may be, to be binding.]

CHAPTER XII.

Labour Courts.

Territorial jurisdiction.

77. The territorial jurisdiction of Labour Courts shall extend to the local areas for which they are constituted.

Powers of Labour Court.

78. (*1*) A Labour Court shall have power to—

A. decide—

(*a*) disputes regarding—

[5][(*i*) the propriety or legality of an order passed by an employer acting or purporting to act under the standing orders;]

(*ii*) the application and interpretation of standing orders;

(*iii*) any change made by an employer or desired by an employee in respect of an industrial matter specified in Schedule III and matters arising out of such change;

(*b*) industrial disputes—

(*i*) referred to it under section 71 or 72;

(*ii*) in respect of which it is appointed as the arbitrator by a submission;

(*c*) whether a strike, lock-out, [6][closure, stoppage] or any change is illegal under this Act;

B. try offences punishable under this Act and where the payment of compensation on conviction for an offence is provided for, determine the compensation and order its payment;

C. require any employer to—

(*a*) withdraw any change which is held by it to be illegal, or

(*b*) carry out any change provided such change is a matter in issue in any proceeding before it under this Act.

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[1] This section was inserted by Bom. 43 of 1948, s. 14.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] The word "award" was substituted for the word "decision" by Bom. 55 of 1949, s. 11.
[4] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[5] This paragraph was substituted for the original, by Bom. 63 of 1953, s. 19.
[6] These words were inserted by Bom. 74 of 1948, s. 13.

(*2*) Every offence punishable under this Act shall be tried by the Labour Court within the local limits of whose jurisdiction it was committed.

Explanation.—A dispute falling under clause (*a*) of paragraph A of sub-section (*1*) shall be deemed to have arisen if within the period prescribed under the proviso to sub-section (*4*) of section 42, no agreement is arrived at in respect of an order, matter or change referred to in the said proviso.

Commencement of proceedings.

79. (*1*) Proceedings before a Labour Court in respect of disputes falling under clause (*a*) of paragraph A of sub-section (*1*) of section 78 shall be commenced on an application made by any of the parties to the dispute, a special application under sub-section (*3*) of section 52 or an application by the Labour Officer [1][or a representative union] and proceedings in respect of a matter falling under clause (*c*) of the said paragraph A on an application made by any employer or employee directly affected or the Labour Officer [1][or a representative Union].

(*2*) Every application under sub-section (*1*) shall be made in the prescribed form and manner.

(*3*) An application in respect of a dispute falling under clause (*a*) of paragraph A of sub-section (*1*) of section 78 shall be made—

(*a*) if it is a dispute falling under sub-clause (*i*) or (*ii*) of the said clause, within three months of the arising of the dispute ;

(*b*) if it is a dispute falling under sub-clause (*iii*) of the said clause, within three months of the employee concerned having last approached the employer under the proviso to sub-section (*4*) of section 42.

(*4*) An application in respect of a matter falling under clause (*c*) of paragraph A of sub-section (*1*) of section 78 shall be made within three months of the commencement of the strike, [2][lock-out, closure or stoppage] or of the making of the illegal change, as the case may be :

[3][Provided that the Labour Court may, for sufficient reasons, admit any application for a declaration that a change is illegal under this Act, after the expiry of three months from the date on which such change was made :

Provided further that when an application is admitted after the expiry of three months under the preceding proviso the employer who made the change shall not be liable to the penalty provided under section 100.]

Labour Court to give notice to parties affected and permit appearance of parties.

[4][80. On receipt of an application under section 79 the Labour Court shall issue a notice to all parties affected by the dispute, in the manner provided by rules under section 85. Subject to the provisions of Chapter V, the Labour Court may permit the parties so affected to appear in the manner provided by the provisions of sections 80A to 80C. The Labour Court shall then hold an inquiry.

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[1] These words were inserted by Bom. 43 of 1948, s. 15.

[2] These words were substituted for words " or lock-out " by Bom. 74 of 1948, s. 14.

[3] These provisos were added by Bom. 55 of 1949, s. 12.

[4] Sections 80 to 80D were substituted for the original section 80, by Bom. 49 of 1955, s. 2.

Procedure to be followed in an application under section 79 by an employer when employees affected are numerous.

80A. (*1*) Where an application is filed under section 79 by an employer or the Labour Officer for the decision of the Labour Court and the employees affected are numerous persons having the same interest, the Court may permit one or more of such employees to appear and to defend the application on behalf of all the employees so interested.

(*2*) In such case the Labour Court shall also direct notice of the filing of the application to be given to all such employees at the applicant's expense either by personal service or where from the number of employees or any other cause such service is not reasonably practicable, by public advertisement and by causing the notice with its translation in a regional language to be affixed by the applicant at the entrance through which the majority of the employees enter the premises for their work. The person affixing the notice and publishing the advertisement shall file an affidavit in the Court of his having done so.

When an employee, who is not permitted to appear may be allowed to join as party.

80B. Any employee, who is not permitted to appear under section 80A but on whose behalf the application is defended may apply to the Court to make him a party to such application. The Court may grant such application, if it is satisfied that the interest of the employee will be severally and materially affected to his prejudice if he is not joined as a party to the application.

Procedure to be followed in an application under section 79 by employees when employees affected are numerous.

80C. (*1*) Where there are numerous employees having the same interest, one or more of such employees, or the Labour Officer, may, with the permission of the Court, file an application under section 79. Such application may be made on behalf of and for the benefit of all the employees. The Court shall, in such cases, direct the notice of the filing of the application to be given to such employees at the applicant's expense, either by personal service or where from the number of employees or any other cause, such service is not practicable, by public advertisement. The person publishing the advertisement shall file an affidavit in the Court of his having done so.

(*2*) An employee on whose behalf an application is filed under sub-section (*1*) may apply to the Court to make him a party to such application. The Court may grant such application if it is satisfied that his interest will be severally and materially affected to his prejudice if he is not joined as a party to the application.

Judge of Labour Court to record minutes of proceedings, averments, etc.

80D. In an inquiry under sections 80 and 80A to 80C, the Judge presiding over the Labour Court shall himself, as such inquiry proceeds, record a minute of the proceedings in his own hand, embracing the material averments made by the parties affected and the material parts of the evidence. The decision shall be signed by him and shall set forth the grounds on which it is based.]

Reference to Industrial Court by Labour Court.

81. A labour Court may refer any question of law arising in any proceeding before it to the Industrial Court for decision. Any order passed by the Labour Court in such proceeding shall be in accordance with such decision.

Cognizance of offences.

82. No Labour Court shall take cognizance of any offence except on a complaint [1][of facts constituting such offence made by the person affected thereby or on a report in writing by the Labour Officer.

Powers and procedure of Labour Courts in trials.

83. In respect of offences punishable under this Act, a Labour Court shall have all the powers under the Code of Criminal Procedure, 1898, of a Presidency Magistrate in Greater Bombay and a Magistrate of the First Class elsewhere, and in the trial of every such offence shall follow the procedure laid down in Chapter XXII of the said Code for a summary trial in which an appeal lies ; and the rest of the provisions of the said Code shall, so far as may be, apply to such trial.

V of 1898.

Legal practitioners excluded from appearance in certain proceedings in Labour Courts.

[2][**83A.** Except in a proceeding in connection with an offence under this Act, a legal practitioner shall not be entitled to appear before a Labour Court on behalf of any party in any other proceeding under this Act, save with the permission of such Court].

Appeals.

84. (*1*) Notwithstanding anything contained in section 83 an appeal shall lie to the Industrial Court—

(*a*) against a decision of a Labour Court in respect of a matter falling under clause (*a*) or (*c*) of paragraph A of sub-section (*1*) of section 78 except to the extent to which it determines whether a strike [3][, lock-out, closure or stoppage] was illegal or not, or a decision of such Court under paragraph C of sub-section (*1*) of the said section ;

(*b*) against a conviction by a Labour Court by the person convicted ;

(*c*) against an acquittal by a Labour Court in its special jurisdiction, by the [4][State] Government ;

(*d*) for enhancement of a sentence awarded by a Labour Court in its special jurisdiction, by the [4][State] Government.

(*2*) Every appeal shall be made within thirty days from the date of the decision, conviction, acquittal or sentence, as the case may be :

Provided that the Industrial Court may for sufficient reasons allow an appeal after the expiry of the said period.

Industrial Court to exercise superintendence over Labour Courts.

85. The Industrial Court shall have superintendence over all Labour Courts and may—

(*a*) call for returns ;

(*b*) make and issue general rules and prescribe forms for regulating the practice and procedure of such Courts in matters not expressly provided for by this Act and, in particular, for securing the expeditious disposal of cases ;

(*c*) prescribe forms in which books, entries and accounts shall be kept by the officers of any such Courts ;

(*d*) settle a table of fees payable for process issued by a Labour Court or the Industrial Court.

Decision, etc., of Labour Court not to be called in question.

86. Except as otherwise provided by this Act, no decision, award or order of a Labour Court shall be called in question in any proceeding in any civil or criminal Court.

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[1] These words were substituted for the words "by the person affected of facts constituting such offence" by Bom. 55 of 1949, s. 13.

[2] Section 83A was inserted by *ibid*, s. 14.

[3] These words were substituted for the words "or lock-out" by Bom. 74 of 1948, s. 15.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[1][CHAPTER XIIA.

WAGE BOARDS.

Wage Boards.

86A. The [2][State] Government may, by notification in the *Official Gazette*, constitute for one or more industries a Wage Board for the [3][State].

Constitution of Wage Board.

86B. The Wage Board shall consist of an equal number of persons nominated by the [2][State] Government to represent employers and employees and such number of independent persons as the [2][State] Government nominates. The Chairman shall be appointed by the [2][State] Government.

Explanation.—For the purposes of this section a person shall be deemed to be an independent person if he is unconnected with the industrial matter which may be referred to it under section 86C [4][or 86CC] and the industry directly affected by the industrial matter.

Reference to Wage Boards.

86C. (*1*) Notwithstanding anything contained in any other provision of this Act, the [2][State] Government may, by an order notified in the *Official Gazette*, refer to a Wage Board for decision any industrial matter or industrial dispute regarding items numbered, 1, 2, 4, 9 and 10 in Schedule II, and such other industrial matters or disputes as may be prescribed.

(*2*) The order of reference under sub-section (*1*) shall specify which employers and employees (including representative of employees if any, and association of employers, if any) shall be parties to the proceedings before the Wage Board.

Reference to Wage Board by certain registered unions.

[5][**86CC.** Notwithstanding anything contained in any other provision of this Act, a registered union which is a representative of employees and which is also an approved union may refer any industrial dispute of the nature mentioned in sub-section (*1*) of section 86C other than a dispute in respect of bonus, to a Wage Board for decision :

Provided that no such dispute shall be referred to the Wage Board by the union,—

(*i*) after two months from the date of the completion of the proceedings before the Conciliator ;

(*ii*) where the employer has offered in writing before the Conciliator to submit the dispute to arbitration under this Act and the union has not agreed to do so ;

(*iii*) unless the dispute is first submitted to the Conciliator and the conciliation proceedings are completed or the Conciliator certifies that the dispute is not capable of being settled by conciliation].

Proceedings not to be commenced or continued before Conciliator, Board, etc.

86D. Notwithstanding anything contained in any other provision of this Act, where an industrial matter or industrial dispute is referred for decision to a Wage Board under section 86C, [6][or 86CC] no proceedings regarding the same shall be commenced before a Conciliator, Board, Labour Court or the Industrial Court or a Court of Enquiry ; and any such proceedings already commenced shall be forthwith stayed on the making of the reference.

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[1] Chapters XIIA and XIIB were inserted by Bom. 43 of 1948, s. 16.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word "Province", *ibid.*
[4] This word figures and letters were inserted by Bom. 63 of 1953, s. 20.
[5] This section was inserted, *ibid.*
[6] This word, figures and letters were inserted, *ibid.*, s. 22.

Procedure before Wage Boards.

86E. A Wage Board shall, in respect of an industrial matter or industrial dispute referred to it for decision, subject to any rules of procedure which may be prescribed, follow the same procedure as the Industrial Court in respect of arbitration proceedings before it.

In particular the rules of procedure which may be prescribed in this behalf may provide for the formation of committees for local areas from amongst members of the Wage Board with co-option of such other persons from the local areas as the Wage Board would for the purpose of any reference think fit to appoint to the committees and the exercise by each such committee of the jurisdiction and powers vested in the Wage Board in respect of such industrial matters or industrial disputes as are referred by the Wage Board to the Committee.

Coming into operation of decision of Wage Board.

[1][**86EE.** Save as provided in section 86-F, a decision of the Wage Board shall come into operation on the date specified in the decision and where no such date is specified therein on the date on which it is published in the prescribed manner.]

Procedure to give effect to decision of Wage Board affecting [2][State] Government.

86F. (*1*) Where the decision of a Wage Board affects an industry conducted or carried on by a department of the [2][State] Government, the decision shall not be effective except in accordance with the procedure set out in sub-sections (*2*) and (*3*).

(*2*) The Wage Board shall, as soon as practicable on the conclusion of its proceedings, submit its decision to the [2][State] Government, and the [2][State] Government shall by order in writing declare the decision to be binding:

Provided that where in the opinion of the [2][State] Government it would be inexpedient on public grounds to give effect to the whole or any part of the decision, the [2][State] Government shall on the first available opportunity lay the decision together with the statement of its reasons for not making a declaration as aforesaid before the Legislative Assembly of the [3][State] and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the decision; and the Legislative Assembly may by its resolution confirm, modify or reject the decision.

(*3*) On the passing of a resolution under the proviso to sub-section (*2*), unless the decision is rejected thereby, the [2][State] Government shall, by order in writing, declare the decision as confirmed or modified by the resolution, as the case may be, to be binding.

[4][(*4*) A decision declared to be binding under sub-section (*2*) or (*3*) shall come into operation on such date as may be specified in the order of declaration made by the [2][State] Government.]

Appeals.

86G. (*1*) An appeal shall lie to the Industrial Court against an order or decision of a Wage Board (including reviewed order or decision), save in cases referred to in section 86F.

(*2*) Such appeal shall be made within six weeks from the date of the order or decision.

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[1] This section was inserted by Bom. 74 of 1948, s. 16.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word "Province", *ibid.*
[4] This sub-section was added by Bom. 74 of 1948, s. 17.

Parties on whom order or decision of Wage Board is binding.

86H. Subject to the provisions of sections 86F and 86G, an order or decision of a Wage Board shall be binding on—

(*a*) all parties to any proceeding before it who appeared or were represented therein;

(*b*) all parties who were summoned to appear as parties to the proceeding, whether they appeared or not;

(*c*) all the employers and employees in the concern or occupation or industry in the local area according as the order of reference under sub-section (*1*) of section 86-C directs irrespective of whether they were such employers or employees at the time of the making or giving of such order or decision, or whether they became such afterwards.

Review of order or decision by Wage Board.

86I. (*1*) An employer or an employee or an association or a group of employers or a registered union or body of employees may apply to a Wage Board for review of an order or decision of the Wage Board and the Wage Board may for any sufficient reason and upon hearing all the parties review the order or decision:

Provided that no such application shall lie until a period of one year has elapsed from the date of the making or giving of the order or decision or the last review thereof, as the case may be:

Provided further that no such application by an employer or an association or a group of employers shall lie unless the employer, association or group, as the case may be, employs not less than fifteen per cent. of the employees whom the the order or decision binds:

Provided also that no such application by an employee or a body of employees shall lie unless the employee or body of employees represents not less than fifteen per cent. of the employees whom the order or decision binds.

(*2*) Where the [1][State] Government makes an application in this behalf, the Wage Board may at any time review its order or decision for any sufficient reason and upon hearing all the parties.

Superintendence by Industrial Court.

86J. The Industrial Court shall have superintendence over all Wage Boards and may—

(*a*) call for returns from such Boards;

(*b*) make and issue general rules, and lay down forms for regulating the practice and procedure of such Boards in matters not expressly provided for by or under this Act, and in particular, for securing expeditious disposal of cases;

(*c*) lay down the forms in which books, entries and accounts shall be kept by officers of Wage Boards;

(*d*) settle fees for processes issued by Wage Boards.

Order or decision of Wage Boards not to be called in question.

86K. (*1*) Save as otherwise provided by this Act, no order or decision of a Wage Board shall be called in question in any proceeding in any civil or criminal court.

(*2*) The appellate order or decision of the Industrial Court under section 86G shall have the same force as the original order or decision of the Wage Board which it replaces except that there shall be no further appeal against it.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Transfer of certain disputes to Wage Board.

[1][86KK. The [2][State] Government may, on the recommendation of the Industrial Court, by an order notified in the *Official Gazette*, direct that any industrial matter, or industrial dispute of the nature mentioned in section 86C which has been referred to the Industrial Court under [3][sub-section (*6*) of section 58 or section 66, 72, 73 or 73-A] and is pending before it at any time shall be transferred to a Wage Board for disposal or for further disposal from the stage reached before the Industrial Court and thereupon all the provisions of this Act shall apply to that dispute as if it were referred to the Wage Board for decision under section 86C.]

CHAPTER XII-B.

[2][STATE] WAGE BOARD.

[2][State] Wage Board.

86L. (*1*) The [2][State] Government may by notification in the *Official Gazette* constitute for all the industries together to which this Act applies a [2][State] Wage Board for the [4][State].

(*2*) In relation to the [2][State] Wage Board the provisions of sections 33, 46, 47, 86B to 86K (both inclusive), 87, 90, 97, 98, 115, 118, 119, 119A and 123 shall be read as if the reference therein to a Wage Board were reference to the [2][State] Wage Board.

CHAPTER XIII.

COURT OF INDUSTRIAL ARBITRATION.

Duties of Industrial Court.

87. It shall be the duty of the Industrial Court—

(*a*) (*i*) to decide appeals under section 20 or 44 from orders passed by the Registrar;

(*ii*) to decide appeals from the decision of the Commissioner of Labour under section 36 or 39 and revision applications under section 37 regarding standing orders;

(*iii*) to decide disputes referred to it under sub-section (*6*) of section 58;

(*iv*) to decide all matters which may be referred to it by a Conciliator or a Board under section 61 or by an arbitrator under section 69;

(*v*) to decide industrial disputes referred to it in accordance with submissions registered under section 66 which provide for such reference to the Industrial Court;

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[1] This section was inserted by Bom. 74 of 1948, s. 18.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] This portion was substituted for the words and figures "section 72 or 73" by Bom. 55 of 1949, s. 15.
[4] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

(*vi*) to decide industrial disputes referred to it under section 71, 72, [1][73 or 73A;]

(*vii*) to decide matters referred to it under section 90;

(*viii*) to decide questions relating to the interpretation of this Act or rules made thereunder and standing orders referred to it under section 91;

(*ix*) to decide references made to it under section 99;

[2][(*ixa*) to modify an award under section 116-A;]

(*x*) to decide such other matters as may be referred to it under this Act or the rules made thereunder;

(*b*) to decide appeals made under section 84 from a decision of a Labour Court;

[3][(*c*) to decide appeals made under section 86G from an order or decision of a Wage Board].

Powers of Industrial Court.

88. (*1*) The Industrial Court in appeal may confirm, modify, add to or rescind any decision or order appealed against and may pass such orders therein as it may deem fit.

(*2*) In respect of offences punishable under this Act, the Industrial Court shall have all the powers of the High Court of Judicature at Bombay under the Code of Criminal Procedure, 1898. V of 1898.

(*3*) A copy of the orders passed by the Industrial Court shall be sent to the Labour Court.

Cancellation of registration of union.

89. If in any proceeding the Industrial Court finds that any union was registered by reason of a mistake, misrepresentation or fraud, or that a registered union has contravened any of the provisions of this Act, the Industrial Court may direct that the registration of such union shall be cancelled.

Reference on point of law.

90. [4][(*1*) A Wage Board may refer to the Industrial Court any point of law arising in any proceedings before it under this Act. Any order or decision made or given by the Wage Board in such proceedings shall be in accordance with the decision of the Industrial Court.]

[5](*2*) A civil or criminal Court may refer any matter or any issue in any suit, criminal prosecution or other legal proceeding before it relating to an industrial dispute to the Industrial Court for its decision. Any order passed by such Court in such suit, prosecution or legal proceeding shall be in accordance with such decision.

[5](*3*) The [6][State] Government may refer to the Industrial Court any point of law arising in any proceedings held under this Act. The Industrial Court shall not decide any such reference save in open Court and with the concurrence of a majority of the members of the Court present at the hearing of the reference.

Reference regarding interpretation of Act and Rules.

91. The Commissioner of Labour may refer any question relating to the interpretation of this Act or the rules made under this Act to the Industrial Court for its decision.

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[1] This figures, word and letter were substituted for the word and figures "or 73" by Bom. 74 of 1948, s. 19 (*a*).

[2] This sub-clause was inserted, *ibid*, s. 19 (*b*).

[3] This clause was inserted by Bom. 40 of 1948, s. 17.

[4] This sub-section was inserted, *ibid*, s. 18 (*1*).

[5] The original sub-sections (*1*) and (*2*) were re-numbered as (*2*) and (*3*), respectively, *ibid*, s. 18 (*2*).

[6] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Procedure before Industrial Court.

92. (*1*) The Industrial Court shall make regulations consistent with the provisions of this Act and rules made thereunder regulating its procedure.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for the formation of Benches consisting of one or more of its members and the exercise by each such Bench of the jurisdiction and powers vested in it :

Provided that no Bench shall consist only of a member who has not been and at the time of his appointment was not eligible for appointment as, a Judge of a High Court.

(*3*) Every regulation made under sub-section (*1*) or (*2*) shall be published in the *Official Gazette*.

(*4*) Every proceeding before the Industrial Court shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228 of the Indian Penal Code.

XLV of 1860.

(*5*) The Industrial Court shall have power to direct by whom the whole or any part of the costs of any proceeding before it shall be paid :

Provided that no such costs shall be directed to be paid for the services of any legal adviser engaged by any party.

Execution of order as to costs.

93. An order made by the Industrial Court regarding the costs of a proceeding may be produced before the Court of the Civil Judge within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business or where such place is within the local limit of the ordinary civil jurisdiction of the High Court before the Court of Small Causes of Bombay, and such Court shall execute such order in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

Parties on whom order of Industrial Court binding.

94. An order, decision or award of the Industrial Court shall be binding on—

(*a*) all parties to the industrial dispute who appeared or were represented before it ;

(*b*) all parties who were summoned to appear as parties to the dispute whether they appeared or not unless the Industrial Court is of opinion that they were improperly made parties ;

(*c*) in the case of an employer who is a party to the proceeding before such Court in respect of the undertaking to which the dispute relates, his successors, heirs or assigns in respect of the undertaking to which the dispute relates ; and

(*d*) in the case of a registered union which is a party to the proceeding before such Court, all persons represented by the union at the date of the award, as well as thereafter.

[1][Order of Industrial Court to be final except on review.]

95. [2][(*1*) An employer or an association or a group of employers or a registered union may at any time apply to the Industrial Court for review of a decision or award of the Industrial Court and the Industrial Court may, for any sufficient reason and upon hearing the parties, review the decision or award.]

[3](*2*) No order, decision or award of the Industrial Court shall be called in question in any civil or criminal Court.

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[1] This marginal note was substituted for the original by Bom. 43 of 1948, s. 19.
[2] This sub-section was inserted, *ibid.*
[3] The original section 95 was re-numbered as sub-section (*2*) of that section, *ibid.*

Law declared by Industrial Court to be binding.

[1][95A. The determination of any question of law in any order, decision, award or declaration passed or made, by the Full Bench of the Industrial Court, constituted under the regulations made under section 92 shall be recognised as binding and shall be followed in all proceedings under this Act.]

Officer to appear in proceeding before Industrial Court.

96. The [2][State] Government may direct any officer to appear in any proceeding before the Industrial Court by giving notice to such Court and on such notice being given such officer shall be entitled to appear in such proceeding.

CHAPTER XIV.

ILLEGAL STRIKES AND LOCK-OUTS.

Illegal strikes.

97. (*1*) A strike shall be illegal if it is commenced or continued—

(*a*) in cases where it relates to an industrial matter specified in Schedule III or regulated by any standing order for the time being in force ;

(*b*) without giving notice in accordance with the provisions of section 42 ;

(*c*) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change ;

(*d*) in cases where notice of the charge is given in accordance with the provisions of section 42 and where no agreement in regard to such change is arrived at before the statement of the case referred to in section 54 is received by the Conciliator for the industry concerned for the local area ;

(*e*) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the completion of such proceedings [3][and during the period of ten days thereafter] ;

(*f*) in cases where special intimation has been sent under sub-section (*2*) of section 52 to the Conciliator, before the receipt of the intimation by the person to whom it is to be given ;

(*g*) in cases where a submission relating to such dispute or such type of disputes is registered under section 66, before such submission is lawfully revoked ;

(*h*) in cases where an industrial dispute has been referred to the arbitration of a Labour Court or the Industrial Court under sub-section (*6*) of section 58 or under section 71, or of the Industrial Court under section 72 [4][,73 or 73A] before the date on which the arbitration proceedings are completed, or the date on which the award of the Labour or Industrial Court, as the case may be, comes into operation, whichever is later ;

(*i*) in contravention of the terms of a registered agreement, or a settlement or [5][effective award] ;

[6][(*j*) where an industrial matter or industrial dispute is referred to a Wag Board for decision, before the date on which the decision comes into operation ;

(*k*) in contravention of the terms of an effective decision of a Wage Board.]

(*2*) In cases where a conciliation proceeding in regard to any industrial dispute has been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the completion of such proceeding.

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1 This section was inserted by Bom. 74 of 1948, s. 20.
2 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
3 This portion was added by Bom. 63 of 1953, s. 23 (*1*).
4 These figures, word and letter were substituted for the word and figures "or 73" *ibid*, s. 23 (*2*).
5 These wrods were substituted for the word "award" by Bom. 43 of 1948, s. 20
6 These clauses were inserted, *ibid*.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), if fourteen clear days notice of a strike not falling under clause (*a*), (*g*), (*h*) or (*i*) of sub-section (*1*) was given to the employer and the Labour Officer, and the strike was not commenced either before the expiry of the period of notice or after six weeks from the date of its expiry, the employees who resume work within forty-eight hours of a Labour Court or the Industrial Court declaring such strike to be illegal shall incur no penalty under this Act in respect of such strike :

Provided that nothing in sub-section (*3*) shall apply to any strike which has within the period of notice been declared under section 99 to be illegal.

Stoppage of work by employees in certain circumstances illegal.

[1][**97A.** A stoppage shall be illegal, if it is commenced or continued,—

(*a*) with the object of compelling the [2][Central or [3][State] Government] or any public servant to take or abstain from taking any particular course of action in regard to an industrial matter, where the [2][Central or [3][State] Government] is not an employer in the industry concerned, or

(*b*) if such stoppage is in support of, or in sympathy with, a strike which is illegal under this Act or the Industrial Disputes Act, 1947, or any other law for the time being in force, whether or not in the same industry, occupation or undertaking.]

XIV of 1947.

Illegal lock-outs.

98. (*1*) A lock-out shall be illegal if it is commenced or continued—

(*a*) in cases where it relates to any industrial matter specified in Schedule III or regulated by any standing order for the time being in force ;

(*b*) without giving notice in accordance with the provisions of section 42 ;

(*c*) in cases where notice of the change is given in accordance with the provisions of section 42 and where no agreement in regard to such change is arrived at, before the statement of the case referred to in section 54 is received by the Conciliator for the industry concerned for the local area ;

(*d*) in cases where conciliation proceedings in respect of an industrial dispute to which a lock-out relates have commenced, before the completion of such proceedings [4][and during the period of ten days thereafter] ;

(*e*) in cases where a special intimation has been sent under sub-section (*2*) of section 52 to the Conciliator, before the receipt of the intimation by the person to whom it is to be given ;

(*f*) in cases where a submission relating to such dispute or such type of disputes is registered under section 66, before such submission is lawfully revoked ;

(*g*) in cases where an industrial dispute has been referred to the arbitration of a Labour Court or the Industrial Court under sub-section (*6*) of section 58 or under section 71, or of the Industrial Court under section 72 [5][, 73 or 73A], before the date on which the arbitration proceeding is completed or the date on which the award of the Industrial Court comes into operation, whichever is later ;

(*h*) in contravention of the terms of a registered agreement, or a settlement or [6][effective award] ;

[7][(*i*) where an industrial matter or industrial dispute is referred to a Wage Board for decision, before the date on which the decision comes into operation ;

(*j*) in contravention of the terms of an effective decision of a Wage Board.]

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[1] This section was inserted by Bom. 74 of 1948, s. 21.

[2] The words "Central or Provincial Government" were substituted for the words "Provincial Government" by Bom. 55 of 1949, s. 16.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] This portion was added by Bom. 63 of 1953, s. 24 (*1*).

[5] These figures, word and letter were substituted for the word and figures "or 73" *ibid.*, s. 24 (*2*).

[6] These words were substituted for the word "award" by Bom. 43 of 1948, s. 21.

[7] These clauses were inserted, *ibid.*

(*2*) In cases where a conciliation proceeding in regard to any industrial dispute has been completed, a lock-out relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months from the completion of such proceeding.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), if fourteen clear days' notice of a lock-out not falling under clause (*a*), (*g*), (*h*) or (*i*) of sub-section (*1*) was given to the employees and the Labour Officer, and the lock-out was not commenced either before the expiry of the period of notice or after six weeks from the date of its expiry and the employer discontinues the lock-out within forty-eight hours of a Labour Court or the Industrial Court declaring such lock-out to be illegal, the employer shall incur no penalty under this Act in respect of such lock-out ;

Provided that nothing in this sub-section shall apply to any lock-out which has within the period of notice been declared under section 99 to be illegal.

Closure of work by employer in certain circumstances illegal.

[1][**98A.** A closure shall be illegal, if it is commenced or continued with the object of compelling the [2][Central or [3][State] Government] or any public servant to take or abstain from taking any particular course of action in regard to any industrial matter.]

Reference to Industrial Court for declaration whether strike, [6][lock-out, closure or stoppage] is illegal.

99. (*1*) The [3][State] Government may make a reference to the Industrial Court for a declaration whether any proposed [4][strike, lock-out, closure or stoppage will be illegal].

(*2*) No declaration shall be made under this section save in open Court.

[5][(*3*) The declaration made under sub-section (*1*) shall be recognised as binding and shall be followed in all proceedings under this Act.]

CHAPTER XV.

COURT OF ENQUIRY.

Court of Enquiry : constitution, duties and powers of —

100. (*1*) The [3][State] Government may constitute one or more Courts of Enquiry consisting of such number of persons as the [3][State] Government may think fit.

(*2*) A Court of Enquiry shall inquire into such industrial matters, as may be referred to it by the [3][State] Government, including any matter pertaining to conditions of work or relations between employers and employees in any industry, and any aspect of any industrial dispute.

(*3*) Every proceeding before a Court of Enquiry shall be deemed to be a judicial proceeding within the meaning of sections 192, 193, and 228 of the Indian Penal Code. XLV of 1860.

CHAPTER XVI.

PENALTIES.

Employer not to dismiss, reduce or punish an employee.

101. (*1*) No employer shall dismiss, discharge or reduce any employee or punish him in any other manner by reason of the circumstance that the employee—

(*a*) is an officer or member of a registered union or a union which has applied for being registered under this Act ; or

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[1] This section was inserted by Bom. 74 of 1948, s. 22.

[2] The words "Central or Provincial Government" were substituted for the words "Provincial Government" by Bom. 55 of 1949, s. 16.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] These words were substituted for the original by Bom. 74 of 1948, s. 23 (*a*).

[5] This sub-section was added, *ibid.*, s. 23 (*b*).

[6] These words were substituted for the words "or lock-out", *ibid.*, s. 23 (*c*).

(*b*) is entitled to the benefit of a registered agreement or a settlement, submission or award; or

(*c*) has appeared or intends to appear as a witness in, or has given any evidence or intends to give evidence in [1][a proceeding under this Act or any other law for the time being in force] [2][, or takes part in any capacity in, or in connection with] a proceeding under this Act; or

(*d*) is an officer or member of an organisation the object of which is to secure better industrial conditions; or

(*e*) is an officer or member of an organisation which is not declared unlawful; or

(*f*) is representative of employees; or

(*g*) has gone on or joined a strike which has not been held by a Labour Court or the Industrial Court to be illegal under the provisions of this Act.

(*2*) No employer shall prevent any employee from returning to work after a strike, arising out of an industrial dispute [3] * * * * * * which has not been held by a Labour Court or the Industrial Court to be illegal unless—

(*i*) the employer has offered to refer the issues on which the employee has struck work to arbitration under this Act, and the employee has refused arbitration; or

(*ii*) the employee not having refused arbitration, has failed to offer to resume work within one month of a declaration by the [4][State] Government that the strike has ended.

(*3*) Whoever contravenes the provisions of sub-section (*1*) or (*2*) shall, on conviction, be punishable with fine which may extend to Rs. 5,000.

(*4*) The Court trying an offence under this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation.

(*5*) In any prosecution under this section the burden of proving that the dismissal discharge, reduction or punishment of an employee by an employer was not in contravention of the provisions of this section shall lie on the employer.

Penalty for declaring illegal lock-out [5][or illegal closure].

102. Any employer who has commenced a lock-out [5][or a closure] which a Labour Court holds or the Industrial Court has declared to be illegal shall, on conviction, be punishable with fine which may extend to Rs. 2,500 and, in the case of the lock-out [6][or the closure, as the case may be,] being continued after the lapse of forty-eight hours after it has been held or declared to be illegal, with an additional fine which may extend to Rs. 5,000 for every day during which such lock-out [7][or closure] continues after such conviction.

Penalty for declaring or commencing illegal strike [11][or illegal stoppage].

103. Subject to the provisions of sub-section (*3*) of section 97, any employee who has gone on strike [9][or stoppage] or who joins a strike [10][or a stoppage] which a Labour Court holds or the Industrial Court has declared to be illegal shall, on conviction, be punishable with fine, which may extend to Rs. 10 and in the case

[1] These words were inserted by Bom. 63 of 1953, s. 25 (*1*).
[2] These words were inserted by Bom. 74 of 1948, s. 24.
[3] The words and figures "relating to any matter specified in Schedule I, II or III" were deleted by Bom. 63 of 1953, s. 25 (*2*).
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] These words were inserted by Bom. 74 of 1948, s. 25 (*a*).
[6] These words were inserted, *ibid.*, s. 25 (*b*).
[7] These words were inserted, *ibid.*, s. 25 (*c*).
[8] These words were inserted, *ibid.*, s. 25 (*d*)
[9] These words were inserted, *ibid.*, s. 26 (*a*).
[10] These words were inserted, *ibid.*, s. 26 (*b*).
[11] These words were inserted, *ibid.*, s. 26 (*c*).

of his continuing on strike [1][or on stoppage, as the case may be,] after the lapse of forty-eight hours after it is held or declared to be illegal, with an additional fine which may extend to Re. 1 per day for every day during which [2][such strike or stoppage continues after such conviction] subject to a maximum of Rs. 50.

Penalty for instigating, etc., illegal strikes [3][lock-outs, closures and stoppages].

104. Any person who instigates or incites others to take part in, or otherwise acts in furtherance of a lockout [4][or a closure] for which an employer is punishable under section 102 or a strike [5][or a stoppage] for which any employee is punishable under section 103, shall, on conviction, be punishable with imprisonment ef either description for a term which may extend to three months, or with fine or with both :

Provided that no person shall be punished under this section where the Court trying the offence is of opinion that in the circumstances of the case a reasonable doubt existed at the time of the commision of the offence about the legality of the [6][strike, lockout, closure or stoppage], as the case may be.

Explanation I.—For the purposes of this section, a person who contributes, collects or solicits funds for the purposes of any such [6][strike, lock-out, closure or stoppage] shall be deemed to act in furtherance thereof.

Explanation II.—A person shall be deemed to have committed an offence under this section if before an illegal [6][strike, lock-out, closure or stoppage] has commenced, he has instigated or incited others to take part in, or otherwise acted in furtherance of such [6][strike, lock-out, closure or stoppage].

Penalty for disclosing confidential information.

105. If a Conciliator, a member of a Board or a Labour Officer or any person present at or concerned in any conciliation proceeding wilfully discloses any information or the contents of any document in contravention of the provisions of this Act, he shall, on conviction, on a complaint made by the party who gave the information or produced the document in such proceeding be punishable, with fine which may extend to Rs. 1,000.

Penalty for illegal change.

106. (*1*) Any employer who makes an illegal change shall, on conviction, be punishable with fine which may extend to Rs. 5,000.

(*2*) Any employer who contravenes the provisions of section 47 shall, on conviction, be punishable with imprisonment which may extend to three months, or for every day on which the contravention continues with fine which may extend to Rs. 5,000, or with both.

(*3*) The Court convicting any person under sub-section (*1*) or (*2*) may direct such person to pay such compensation as it may determine to any employee directly and adversely affected by the change in issue.

Penalty for failure to appoint members on Joint Committee.

[7]**[106A.** Any employer who fails to appoint members of a Joint Committee to be constituted on an application made by the union within the period specified in the order made under sub-section (*1*) of section 49 shall, on conviction, be punishable with fine which may extend to fifty rupees and in the case of a continuing failure with an additional fine which may extend to fifty rupees for every day during which such failure continues.]

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[1] These words were inserted by Bom. 74 of 1948, s. 26 (*c*).
[2] These words were substituted for the original, *ibid.*, s. 26 (*d*).
[3] These words were substituted for the original, *ibid.*, s. 27 (*d*).
[4] These words were inserted, *ibid.*, s. 27 (*a*).
[5] These words were inserted, *ibid.*, s. 27 (*b*).
[6] These words were substituted for the original, *ibid.*, s. 27 (*c*).
[7] This section was inserted by Bom. 43 of 1948, s. 22.

Penalty for contravention of a standing order.

107. Any employer who acts in contravention of a standing order settled under Chapter VII shall, on conviction, be punishable with fine which may extend to Rs. 500 and in the case of a continuing contravention of such standing order, with an additional fine which may extend to Rs. 125 per day for every day during which such contravention continues.

Penalty for obstructing person from carrying out duties.

108. Any person who wilfully refuses entry to a Labour Officer or such officer of an approved union as is authorised under section 25 to any place which he is entitled to enter, or fails to produce any document which he is required to produce, or fails to comply with any requisition or order issued to him by or under the provisions of this Act or the rules made thereunder shall, on conviction, be punishable with fine which may extend to Rs. 500.

Penalties for offences not provided for elsewhere.

109. Whoever contravenes any of the provisions of this Act or of any rule made thereunder shall on conviction, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to Rs. 100 and, in the event of such person having been previously convicted of an offence under this Act or any rule made thereunder with fine which may extend to Rs. 200.

Recovery of fines and compensation.

110. The amount of any fine imposed and any compensation directed by any Court to be paid under this Act shall be recoverable as arrears of land revenue.

CHAPTER XVII.

Record of Industrial Conditions.

Record of industrial matters, etc.

111. The [1][State] Government may in respect of any industry—

(*a*) maintain in the prescribed manner a record of industrial matters covered by the Schedules ;

(*b*) require any employer or employers generally to maintain and submit copies of a record in such form as may be prescribed of—

(*i*) data relating to plant, premises and manufacture,

(*ii*) other industrial transactions and dealings,

which in the opinion of the [1][State] Government are likely to affect the matters specified in clause (*a*).

Inquiry for verification of records.

112. (*1*) For the purpose of verifying the accuracy of any records maintained by an employer under the provisions of section 111, an officer authorised by the [1][State] Government may, subject to the prescribed conditions hold an inquiry and may require any person to, and such person thereupon shall, produce any relevant record or document in his possession and may after reasonable notice, at any reasonable time enter any premises wherein he believes such record or document to be, and may ask any question necessary for verifying such records :

Provided that where such premises are not the usual business premises of a person, such officer shall not without the previous permission of the [1][State] Government enter them under this sub-section.

(*2*) Any proceeding held by him for the purpose of obtaining information for such record shall be deemed to be a judicial proceeding within the meaning of section 192 of the Indian Penal Code.

XLV of 1860.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

CHAPTER XVIII.

MISCELLANEOUS.

Modifications in Schedules.

113. The [1][State] Government may, by notification in the *Official Gazette* at any time, make any additions to or alterations in the industrial matters specified in Schedule I, II or III or may delete therefrom any such matter :

Provided that before making any such addition, alteration or deletion a draft of such addition, alteration or deletion shall be published for the information of all persons likely to be affected thereby and the [1][State] Government shall consider any objection or suggestion that may be received by it from any person with respect thereto.

Dismissal of certain applications for want of prosecution.

[2][**113A.** The Registrar may, after giving fifteen days' notice, dismiss any application made under section 13, 16, 17 or 23, if he is satisfied that the applicant union has failed to pursue or prosecute the application, without any sufficient cause.]

Agreement, etc., on whom binding.

114. (*1*) A registered agreement, or a settlement, submission or award shall be binding upon all persons who are parties thereto :

Provided that—

(*a*) in the case of an employer, who is a party to such agreement, settlement, submission or award, his successors in interest, heirs or assigns in respect of the undertaking as regards which the agreement, settlement, submission or award is made, and

(*b*) in the case of a registered union which is a party to such agreement, settlement, submission or award, [3][all employees in the industry in the local area whose representative, the said union is]

shall be bound by such agreement, settlement, submission or award.

(*2*) In cases in which a Representative Union is a party to a registered agreement, or a settlement, submission or award, the [1][State] Government may, after giving the parties affected an opportunity of being heard, by notification in the *Official Gazette*, direct that such agreement, settlement, submission or award shall be binding upon such other employers and employees in such industry or occupation in that local area as may be specified in the notification :

Provided that before giving a direction under this section the [1][State] Government may, in such cases as it deems fit, make a reference to the Industrial Court for its opinion.

(*3*) A registered agreement entered into by the representatives of the majority of the employees affected or deemed to be affected under section 43 by a change shall bind all the employees so affected or deemed to be affected.

Order of decision of [4][Wage Board or Labour Court] on whom binding.

115. An order or decision of a [4][Wage Board or Labour Court] against an employer shall bind his successors in interest, heirs and assigns in respect of the undertaking as regards which it is made or given and such order or decision against a registered union shall bind [5][all employees in the industry in the local area whose representative, the said union is].

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] Section 113A was inserted by Bom. 63 of 1953, s. 26.
[3] This portion was substituted for the original by Bom. 49 of 1955, s. 3.
[4] These words were substituted for the original by Bom. 43 of 1948, s. 23.
[5] This portion was substituted for the original by Bom. 49 of 1955, s. 4.

[1][115A. If any agreement is arrived at between an employer and a Representative Union who are parties to any industrial dispute pending before an Arbitrator, Wage Board, Labour Court or Industrial Court, the order, decision or award in such proceeding shall be made in terms of such agreement, unless the Arbitrator, Wage Board, Labour Court or Industrial Court is satisfied that the agreement was in contravention of any of the provisions of this Act or the consent of either party to it was caused by mistake, misrepresentation, fraud, undue influence, coercion or threat.] Order, decision or award to be in terms of agreement between employer and Representative Union.

116. (*1*) A registered agreement, or a settlement or award shall cease to have effect on the date specified therein or if no such date is specified therein, on the expiry of the period of two months from the date on which notice in writing to terminate such agreement, settlement or award, as the case may be, is given in the prescribed manner by any of the parties thereto to the other party : Agreement, etc., when to cease to have effect.

Provided that no such notice shall be given till the expiry of three months after the agreement, settlement or award comes into operation.

(*2*) Nothing in this section shall prevent the terms of a registered agreement or a settlement [2][or an award in terms of an agreement] being changed or modified by mutual consent of the parties affected thereby [3][and the registered agreement, settlement or award shall be deemed to be changed or modified accordingly].

(*3*) Notwithstanding anything contained in sub-section (*1*) or (*2*), if a registered agreement, or a settlement or award provides that it shall remain in force for a period exceeding one year, it may after the expiry of one year from the date of its commencement be terminated by either party thereto giving two months' notice in the prescribed manner to the other party.

(*4*) The party giving notice under sub-section (*1*) or (*3*) shall send a copy of it to the Registrar and the Labour Officer of the local area concerned.

(*5*) If a registered agreement, or a settlement or award is terminated under sub-section (*1*) or (*3*) or if the terms of a registered agreement or a settlement [3][or an award] are changed or modified by mutual consent, notice of such termination, change or modification shall be given by the parties concerned to the Registrar and the Labour Officer. The Registrar shall enter the notice of such termination, change or modification in a register kept for the purpose.

Explanation.—For the purposes of this section, parties who shall be competent to terminate a registered agreement, or a settlement or award, or to change or to modify the terms of a registered agreement or a settlement [4][or an award] and who shall give notice of such termination, change or modification under sub-section (*5*) shall be the employer who has signed the agreement or settlement or who is a party to the award or the heirs, successors or assigns of such employer in respect of the undertaking concerned and the representative of the employees affected by the agreement, settlement or award.

[5][**116A.** (*1*) Any party who under the provisions of section 116 is entitled to give notice of the termination of an award may instead of giving such notice, apply after the expiry of the period specified in sub-section (*2*), to the Industrial Court, the Labour Court or the Wage Board making the award, for its modification. Modification of award.

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[1] Section 115A was inserted by Bom. 55 of 1949, s. 18.
[2] The words " or an award in terms of an agreement " were inserted by Bom. 55 of 1949, s.19 (*i*)(*a*).
[3] This portion was added, *ibid*, s. 19 (*i*) (*b*).
[4] These words were inserted, *ibid.*, s. 19 (*ii*).
[5] This section was inserted by Bom. 7x of 1948, s. 28.

(*2*) Such application in the case of an award—

(*a*) which does not specify a date on which it shall cease to have effect shall not be made until the expiry of the period of two months from the date on which notice can be given to terminate the award under section 116;

(*b*) which provides that it shall remain in force for a period exceeding one year, shall not be made until the expiry of one year from the date of its commencement.

(*3*) On such application being made, the Industrial Court, the Labour Court or the Wage Board, as the case may be, may, after hearing the parties and taking such evidence as it thinks fit, modify the award.

(*4*) Where an application for the modification of an award under sub-section (*1*) is made, such application shall not in any way affect the binding effect of such award in regard to the matters determined therein until it is modified.

(*5*) Nothing in this section shall affect the right of any party to terminate such award in accordance with the provisions of section 116.]

Liability of the executive of a union.

117. Where anything is required to be done by any union under this Act, the person authorised in this behalf by the executive of the union, and where no person is so authorised every member of the executive of the union, shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation.—For the purposes of this section, the executive of a union means the body by whatever name called to which the management of the affairs of the union is entrusted.

Powers of certain authorities to summon witnesses, etc.

118. (*1*) For the purpose of holding an inquiry or proceeding under this Act, the Registrar, a Conciliator, [1][a Wage Board], Board, Labour Court in its ordinary jurisdiction, a Court of Enquiry and the Industrial Court shall have the same powers as are vested in Courts in respect of—

(*a*) proof of facts by affidavits;

(*b*) summoning and enforcing the attendance of any person and examining him on oath;

(*c*) compelling the production of documents; and

(*d*) issuing commissions for the examinations of witnesses.

(*2*) The Registrar, a Conciliator, [1][a Wage Board] or Board shall also have such further powers as may be prescribed.

(*3*) For the purpose of obtaining the information necessary for compiling and maintaining the record under Chapter XVII the officer authorised under section 112 shall have the powers specified in clauses (*b*) and (*c*) of sub-section (*1*) and in sub-section (*2*).

[2][(*4*). A Wage Board, a Labour Court and the Industrial Court shall also have powers to call upon any of the parties to proceedings before it to furnish in writing and in such form as it may think proper any information which it considers relevant for the purpose of any proceedings before it and the party so called upon shall thereupon furnish the information to the best of his knowledge and belief, and if so required by the Board or the Court to do so, verify the same in such manner as may be prescribed.]

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[1] These words were inserted by Bom. 43 of 1948, s. 24.

[2] This sub-section was added by Bom. 63 of 1953, s. 27.

[1][118A. The offence under section 104 shall be cognizable.] Offences under section 104 cognizable.

119. The Registrar, an Assistant Registrar, a Conciliator, a Labour Officer, an Assistant Labour Officer, an arbitrator, [2][a member of a Wage Board], a member of a Board, an officer authorised under section 112, a Judge of a Labour Court, a member of the Industrial Court or a Court of Enquiry and a member of the staff of any of the said Courts shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Certain officers to be public servants.

XLV of 1860.

[3][119A. (*1*) If any person— Contempt of Industrial Court, Labour Courts and Wage Boards relating to omission to produce documents, etc.

(*a*) when ordered by the Industrial Court or a Labour Court or a Wage Board to produce or deliver up any document, [4][or to furnish any information,] being legally bound intentionally omits to do so ; or

(*b*) when required by the Industrial Court or a Labour Court or a Wage Board to bind himself by an oath or affirmation to state the truth refuses to do so ;

(*c*) being legally bound to state the truth on any subject to the Industrial Court or a Labour Court or a Wage Board refuses to answer any question demanded of him touching such subject by such Court or Board : or

(*d*) intentionally offers any insult or causes any interruption to the Industrial Court or a Labour Court or a Wage Board at any stage of its judicial proceeding, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(*2*) If any person refuses to sign any statement made by him when required to do so by the Industrial Court or a Labour Court or a Wage Board, he shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(*3*) If any offence under sub-section (*1*) or (*2*) is committed in the view or presence of the Industrial Court or a Labour Court or a Wage Board, as the case may be, such Court or Wage Board may, after recording the facts constituting the offence and the statement of the accused as provided in the Code of Criminal Procedure, 1898, forward the case to a magistrate having jurisdiction to try the same and may require security to be given for the appearance of the accused person before such magistrate or, if sufficient security is not given, shall forward such person in custody to such magistrate. The magistrate to whom any case is so forwarded shall proceed to hear the complaint against the accused person in the manner provided in the said Code of Criminal Procedure.

V of 1898.

119B. (*1*) If any person commits any act or publishes any writing which is calculated to improperly influence the Industrial Court, or a Labour Court or a Wage Board or to bring such Court, Board, or a member or a Judge thereof into disrepute or contempt or to lower its or his authority, or to interfere with the lawful process of any such Court or Board, such person shall be deemed to be guilty of contempt of such Court or Board, as the case may be. Other kinds of contempts of Industrial Court, Labour Courts and Wage Boards.

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[1]This section was inserted by Bom. 43 of 1948, s. 25.
[2]These words were inserted, *ibid*, s. 26.
[3] Sections 119A and 119B were inserted, *ibid*, s. 27.
[4] These words were inserted by Bom. 63 of 1953, s. 28.

(*2*) In the case of contempt of itself the Industrial Court shall record the facts constituting such contempt and make a report in that behalf to the High Court.

(*3*) In the case of contempt of a Wage Board or a Labour Court, such Board or Court shall record the facts constituting such contempt and make a report in that behalf to the Industrial Court; and thereupon the Industrial Court may, if it considers it expedient to do so, forward the report to the High Court.

(*4*) When any intimation or report in respect of any contempt is received by the High Court under sub-section (*2*) or (*3*), the High Court shall deal with such contempt as if it were contempt of itself and shall have and exercise in respect of it the same jurisdiction, powers and authority in accordance with the same procedure and practice as it has and exercises in respect of contempt of itself.]

Power of Industrial Court, etc., cto decide all onnected matters.

[1][**119C.** Notwithstanding anything contained in this Act, the Industrial Court, a Labour Court or a Wage Board, as the case may be, shall have the power to decide all matters arising out of the industrial matter or dispute referred to it for decision under any of the provisions of this Act.]

Power of Industrial Court, etc., to oass interim prders.

[1][**119D.** In any proceeding before it under this Act, the Industrial Court, a Labour Court or a Wage Board may pass such interim orders as it may consider just and proper.]

Protection of action taken under this Act.

[1][**119E.** No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or purported to be done under this Act.]

Provisions of Act VII of 1929 not to be affected.

120. Nothing in this Act shall affect any of the provisions of the Trade Disputes Act, 1929, and no conciliation or arbitration proceeding shall be held under this Act relating to any matter or trade dispute which has been referred to and is pending before a Court of Enquiry or Board of Conciliation under the said Act. VII of 1929.

Repeal of Bom. IX of 1934.

121. The Bombay Trade Disputes Conciliation Act, 1934, shall cease to apply in a local area to any industry in respect of which the provisions of this Act have been brought into force in such local area. Bom. IX of 1934.

Repeal of Bom. XXV of 1938.

122. The Bombay Industrial Disputes Act, 1938, is hereby repealed : Bom. XXV of 1938.

Provided that—

(*a*) every appointment, order, rule, regulation, notification or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or issued under the provisions of this Act, unless and until superseded by any appointment, order, rule, regulation. notification or notice made, issued or given under this Act;

(*b*) any standing order settled, agreement registered, changes which have come into operation, settlements recorded or registered, submissions registered, awards made or orders passed, by the Industrial Court, under the provisions of the Act so repealed shall be deemed to have been settled, registered. to have come into operation, to have been recorded, made or passed by the appropriate authority under the corresponding provisions of this Act;

[1] Sections 119C, 119D and 119E were inserted by Bom. 63 of 1953, s. 29.

(*c*) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed shall not be affected and any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability shall, so far as it is not inconsistent with the provisions of this Act, be made, instituted and availed of as if the said Act had not been repealed and continues in operation :

(*d*) any proceedings pending before the Industrial Court, conciliation proceedings, or any proceedings relating to the trial of offences punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed and continues in operation ; and any penalty imposed in such proceedings shall be recorded under the Act so repealed ;

(*e*) a Registered Union or a Representative Union or a Qualified Union or other representatives elected, entitled to appear or act as the representatives of employees under the Act so repealed shall, notwithstanding the repeal of the said Act, continue to act as the representatives of employees in any proceedings under this Act for a period of three months from the date on which this Act comes into force.

Rules.

123. (*1*) The [1][State] Government may by notification in the *Official Gazette* make rules to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters, namely :—

(*a*) the authority to be prescribed under sub-clause (*c*) of clause (*14*) of section 3 ;

(*b*) the manner in which the panels representing the interests of employers and employees shall be constituted and the manner in which vacancies in the Board of Conciliation shall be filled up under section 7 ;

(*c*) the qualifications for being eligible to be appointed to preside over Labour Courts under section 9 ;

(*d*) the form in which the registers of unions and the approved list shall be maintained under section 12 ;

(*e*) the form of application under sub-sections (*1*), (*2*) and (*3*) of section 13 ;

(*f*) the fee to be paid, and the form of certificate of registration to be issued under section 14 ;

(*g*) the fee to be paid under sub-section (*1*), and the manner of publication under sub-section (*4*), of section 16 ;

(*h*) the fee to be paid under sub-section (*1*) of section 17 ;

(*i*) the dates on which and the manner in which returns shall be submitted under section 19 ;

(*j*) the manner of publication of orders under section 21 ;

(*k*) the manner of registration of a union for more local areas than one under section 22 ;

(*l*) the form of application under section 23 ;

(*m*) the officers [2][, members of the office staff] [3][and members of approved unions] to be authorised under section 25 and the manner in which and the conditions subject to which the rights under that section shall be exercised ;

(*n*) the fees to be prescribed under sub-section (*6*) of section 26 ;

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were inserted by Bom. 63 of 1953, s. 30 (*1*).
[3] These words were inserted by Bom. 43 of 1948, s. 28(*i*).

[1][(*na*) the procedure to be followed by the Registrar for ascertaining membership of unions for the purposes of Chapters III and IV ;

(*nb*) the manner of submitting objections to such membership and the amount of deposit which the Registrar may require to be made before entering upon the inquiry ;

(*nc*) the fine which may be imposed by the Registrar for any frivolous or vexatious objections to membership ;]

(*o*) the authority to be prescribed under clause (*b*) of sub-section (*2*), and the manner of determining the representative of employers under sub-section (*3*), of section 27 ;

(*p*) the manner in which the persons shall be elected under sub-section (*1*), recalled under sub-section (*4*), the period for which and the manner in which they shall function and the manner in which vacancies shall be filled under sub-section (*5*), of section 28 ;

(*q*) the manner of authorising a Qualified or Primary Union under clause (*iii*) of, the manner of accepting the terms of an agreement or settlement under proviso *Secondly* and the number of representatives and the manner of their election under proviso *Thirdly* to, section 30 ;

(*r*) the conditions subject to which the powers of entry and inspection shall be exercised under sub-section (*2*) of section 34 ;

(*s*) the manner of submission of draft standing orders under sub-section (*1*), and the manner of consulting the representative of employees and other interests under sub-section (*2*), of section 35 ;

(*t*) the form of notice and the other persons to be prescribed under sub-section (*1*) and (*2*) and the manner of approach and the period to be prescribed under the proviso to sub-section (*4*), of section 42 ;

(*u*) the other persons to be prescribed under sub-section (*3*) of section 43 ;

(*v*) the manner of forwarding the memorandum of agreement under sub-section (*1*) of section 44 ;

(*w*) [2][the number of members of a Joint Committee, the manner of nomination of members by the union and the manner of giving copies of orders under sub-section (*1*), and] the appointment of the chairman and the manner in which he shall perform his duties under sub-section (*2*), of section 49 ;

(*x*) the manner of conducting the proceedings of a Joint Committee under sub-section (*2*) of section 50 ;

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[1] These clauses were inserted by Bom. 49 of 1955, s. 5.
[2] This portion was substituted for the original in Bom. 43 of 1948, s. 28(*ii*).

(*y*) the manner in which the memorandum of agreement shall be forwarded under sub-section (*1*), the form in which a special intimat on shall be forwarded under sub-section (*2*), and the other persons to be prescribed under sub-section (*4*), of section 52 ;

(*z*) the form in which the statement shall be forwarded under sub-section (*1*) of section 54 ;

(*aa*) the manner of holding conciliation proceedings under sub-section (*1*) of section 56 ;

(*ab*) the form in which the memorandum of settlement shall be drawn up, and the manner of its publication under sub-section (*1*) of section 58 ;

(*ac*) the manner of giving notice under sub-Section (*2*) of section 59 ;

(*ad*) the procedure to be followed by a Conciliator or Board under sub-section (*1*) of section 60 ;

(*ae*) the manner of publication of a submission under sub-section (*3*) of section 66 ;

(*af*) the modifications to be prescribed under sub-section (*2*), and the manner of making the employers parties to arbitration under sub-section (*3*), of section 72 ;

(*ag*) the manner of publication under sub-section (*2*) of section 74 ;

(*ah*) the form and manner in which an application shall be made under sub-section (*2*) of section 79 ;

[1][(*aha*) the other industrial matters and disputes under sub-section (*1*) of section 86C ;

(*ahb*) the rules of procedure to be followed by a Wage Board under section 86E ;]

(*ai*) the manner in which the record shall be maintained under section 111 ;

(*aj*) the conditions to be prescribed under sub-section (*1*) of section 112 ;

(*ak*) the manner of giving notice under section 116 ;

(*al*) the further powers of the Registrar, a Conciliator, [2][Wage Board] or Board under sub-section (*2*), [3][and the manner of verifying information under sub-section (*4*) of section 118] ;

(*am*) any other matter which is required to be or may be prescribed.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

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[1] These clauses were inserted by Bom. 43 of 1948, s. 28 (*iii*).
[2] These words were inserted, *ibid*, s. 28 (*iv*).
[3] These words, brackets and figures were substituted for the words and figures "of section 118" by Bom. 63 of 1953, s. 30 (*2*).

SCHEDULE I.

(SECTION 35.)

1. Classification of employees, e.g., permanent, temporary, apprentices, probationers, badlis, etc.

[1][1A. Employees' tickets, cards, registers and service certificates.]

2. Manner of notification to employees of periods and hours of work, holidays, pay days and wage rates.

3. [2][Shift working including notice] to be given to employees of starting, alteration or discontinuance of two or more shifts in a department or departments.

4. Closure or reopening of a department or a section of a department or the whole of the undertaking.

5. Attendance and late coming.

[3][6. Procedure and authority to grant leave.

7. Procedure and authority to grant holidays.]

8. Liability to search and entry into premises by certain gates.

9. Ten porary [4][closures] of work including playing off, and rights and liabilities of employers and employees arising therefrom.

10. Termination of [5][employment including notice] to be given by employer and employee.

11. [6][Punishment including warning, censure, fine, suspension or] dismissal for misconduct, suspension pending inquiry into alleged misconduct and the acts or omissions which constitute misconduct.

12. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.

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[1] This item was inserted by G. N., Lab. D., No. 22/48-I, dated 17th September 1948.

[2] These words were substituted for the word "Notice", *ibid.*

[3] Items 6 and 7 were substituted for the original by G. N., D. D., No. 1237/46, dated 23rd October 1952.

[4] This word was substituted for the word "stoppages" by G. N., Lab. & H. D., No. 717/48, dated 17th May 1950.

[5] These words were substituted for the words "employment: notice" by G. N., Lab. D., No. 22/48-I, dated 17th September 1948.

[6] Tahese words were substituted for the words "Suspension or" by G. N., Lab. & H.D., No. 22/48, dated 11th April 1950.

SCHEDULE II.

(SECTION 42.)

1. Reduction intended to be of permanent or semi-permanent character in the number of persons employed or to be employed in any occupation or process or department or departments or in a shift not due to *force majeure*.

2. Permanent or semi-permanent increase in the number of persons employed or to be employed in any occupation or process or department or departments.

3. Dismissal of any employee except as provided for in the standing orders applicable under this Act.

4. Rationalisation or other efficiency systems of work.

[1][5. All matters pertaining to shift working which are not covered by the Standing Orders applicable under this Act].

6. Withdrawal of recognition to unions of employees.

7. Withdrawal of any customary concession or privilege or change in usage.

8. Introduction of new rules of discipline or alteration of existing rules and their interpretation, except in so far as they are provided for in the standing orders applicable under this Act.

9. Wages including the period and mode of payment.

10. Hours of work and rest intervals.

[2][11. All matters pertaining to leave and holidays, other than those specified in items 6 and 7 in Schedule I.]

SCHEDULE III.

(SECTION 42.)

(1) Adequacy and quality of materials and equipment applied to the workers.

(2) Assignment of work and transfer of workers within the establishment.

(3) Health, safety and welfare of employees (including water, dining sheds, rest sheds, latrines, urinals, creches, restaurants, and such other amenities).

(4) Matters relating to trade union organization, membership and levies.

(5) Construction and interpretation of awards, agreements and settlements.

(6) Employment including—
  (*i*) reinstatement and recruitment;
  (*ii*) unemployment of persons previously employed in the industry concerned.

(7) Payment of compensation for [3][closures].

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[1] This item was substituted for the original by G. N., Lab. D., No. 22/48-I, dated 17th September 1948.

[2] This item was inserted by G. N., D. D., No. 1237/46, dated 28th February 1953.

[3] This word was substituted for the word "stoppages" by G. N., Lab. & H. D., No. 717/48, dated 17th May 1950.

THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Repeal of Bom. X of 1942.
3. Amendment of section 28 of Act XVI of 1908.

BOMBAY ACT No. XIV OF 1947.[1]

[THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1947.]

[*21st April 1947.*]

An Act to repeal and re-enact the provisions of the Indian Registration (Bombay Amendment) Act, 1942.

26 Geo. 5, Ch. 2. Bom. X of 1942. WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is expedient to repeal and re-enact the provisions of the Indian Registration (Bombay Amendment) Act, 1942; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Indian Registration (Bombay Amendment) Act, 1947.

Bom. X of 1942. Repeal of Bom. X of 1942. **2.** The Indian Registration (Bombay Amendment) Act, 1942. is repealed.

XVI of 1908. Amendment of section 28 of Act XVI of 1908. **3.** In section 28 of the Indian Registration Act, 1908, in its application to the Province of Bombay, for the brackets, letters and word " (*c*) and (*ee*) " the brackets, letters and word " (*c*), (*cc*) and (*ee*) " shall be substituted.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V, page 1; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X, and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

THE PRISONERS (BOMBAY AMENDMENT) ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendments of sections 35 and 37 of Act III of 1900.
3. Repeal of sections 38 and 39 of Act III of 1900.
4. Amendment of section 43 of Act III of 1900.

BOMBAY ACT No. XVII OF 1947.[1]

[THE PRISONERS (BOMBAY AMENDMENT) ACT, 1947.]

[*21st April 1947.*]

An Act to amend the Prisoners Act, 1900, in its application to the Province of Bombay.

III of 1900. WHEREAS it is expedient to amend the Prisoners Act, 1900, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Prisoners (Bombay Amendment) Act, 1947.

Amendment of sections 35 and 37 of Act III of 1900. III of 1900. 2. In sections 35 and 37 of the Prisoners Act, 1900 (hereinafter called the said Act), the words and figures " Subject to the provisions of section 39 ," shall be deleted.

Repeal of sections 38 and 39 of Act III of 1900. 3. Sections 38 and 39 of the said Act shall be repealed.

Amendment of section 43 of Act III of 1900. 4. In clause (*a*) of section 43 of the said Act, for the words and figures " section 37 or section 39 " the words and figures " or section 37 " shall be substituted.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V, page 26.

THE BOMBAY HINDU WOMEN'S RIGHTS TO PROPERTY (EXTENSION TO AGRICULTURAL LAND) ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Repeal of Bom. XVII of 1942.
3. Term " property " in Acts No. XVIII of 1937 and No. XI of 1983 to include agricultural land.

MO-II Bk H 957—63a

BOMBAY ACT No. XIX OF 1947.[1]

[THE BOMBAY HINDU WOMEN'S RIGHTS TO PROPERTY (EXTENSION TO AGRICULTURAL LAND) ACT, 1947.]

[*25th April 1947.*]

An Act to repeal the Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1942, and to re-enact section 2 thereof.

26 Geo. 5, Ch. 2. Bom. XVII of 1942.

WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is expedient to repeal the Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1942, and to re-enact section 2 thereof; It is hereby enacted as follows :—

Short title. and extent.

1. (*1*) This Act may be called the Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1947.

(*2*) It extends to the Province of Bombay.

Bom. XVII of 1942.

Repeal of Bom. XVII of 1942.

2. The Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1942, is hereby repealed.

Bom. XVIII of 1937. XI of 1938.

Term " property " in Acts No. XVIII of 1937 and No. XI of 1938 to include agricultural land.

3. The term " Property " in the Hindu Women's Rights to Property Act, 1937, and the Hindu Women's Rights to Property (Amendment) Act, 1938, as in force in the Province of Bombay, shall include, and shall be deemed always to have included, agricultural land :

Provided that nothing in this Act shall affect any rule of succession prescribed for tenants' rights in agricultural land by any special law for the time being in force.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V, page 29.

The Bombay Hindu Divorce Act, 1947 (Bom. XXII of 1947) at pages 2421–2426 has been repealed by the Hindu Marriage Act, 1955 (XXV of 1955), section 30.

BOMBAY ACT No. XXIV OF 1947.[1]

[THE COURT-FEES (BOMBAY AMENDMENT) ACT, 1946.]

[*14th May 1947.*]

An Act to amend the Court-fees Act, 1870, in its application to the Province of Bombay.

VII of 1870. WHEREAS it is expedient to amend the Court-fees Act, 1870, in its application to the Province of Bombay for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Court-fees (Bombay Amendment) Act, 1946. Short title.

VII of 1870. **2.** For section 11 of the Court-fees Act, 1870, in its application to the Province of Bombay the following shall be substituted, namely :— Amendment of section 11 of Act VII of 1870.

"11. (*1*) In a suit for the recovery of possession of immoveable property and mesne profits or for mesne profits or for an account, the difference, if any, between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits or amount found due shall, on delivery of judgment, be taxed by the Court and shall be leviable from the plaintiff and if not paid by him within thirty days from the date of the judgment be recoverable according to the law and under the rules for the time being in force for the recovery of arrears of land revenue. Taxing of Court-fees and their recovery in suits for mesne profits or account.

(*2*) The Court shall send a copy of the decree passed in such suit to the Collector.

(*3*) No decree for mesne profits passed in any such suit by the Court shall be executed until such difference is paid or recovered.

Explanation.—For the purpose of this section 'plaintiff' includes any party to a suit to whom any profits or amount are or is found to be due"

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 233 ; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

THE BOMBAY (EMERGENCY POWERS) WHIPPING ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Punishment of whipping for certain offences.
3. Punishment for certain offences punishable under Bom. IV of 1902 and Bom. IV of 1890.
4. Repeal of Bom. XI of 1941.

BOMBAY ACT No. XXVII OF 1947.[1]

[THE BOMBAY (EMERGENCY POWERS) WHIPPING ACT, 1947.]

[*26th May 1947*]

Amended by Bom. 53 of 1949.

An Act to re-enact the Bombay (Emergency Powers) Whipping Act, 1941, and to amend further the law relating to the punishment of whipping in the Province of Bombay.

26 Geo. 5. Ch. 2. Bom. XI of 1941.

WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is expedient to re-enact the provisions of the Bombay (Emergency Powers) Whipping Act, 1941 ;

AND WHEREAS it is expedient to amend further the law relating to the punishment of whipping in the Province of Bombay ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay (Emergency Powers) Whipping Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) This section and section 4 shall come into force at once. The Provincial Government may, by notification in the *Official Gazette*, direct that section 2 or section 3 shall come into force in such area and from such date as may be specified in such notification.

Punishment of whipping for certain offences.

IV of 1909. XLV of 1860.

2. In addition to the persons who may be punished with whipping under section 4 of the Whipping Act, 1909, whoever commits or abets the commission of any offence punishable under [2][section] 147, 148, 324, 325, 326, 435 or 436 of the Indian Penal Code may be punished with whipping in addition to any punishment to which he may be liable for such offence or for abetment of such offence under the said Code.

Punishment for certain offences punishable under Bom. IV of 1902 and Bom. IV of 1890.

Bom. IV of 1902.

3. (*1*) Whoever—

(*a*) commits an offence punishable under clause (*a*) of section 112 of the City of Bombay Police Act, 1902 (hereinafter called the said Act) or

(*b*) is punishable under clause (*b*) or clause (*c*) of section 122 of the said Act—

(*i*) for behaving in a riotous manner, or

(*ii*) for using any threatening words or gestures whereby a breach of the peace or public nuisance may be occasioned,

may be punished with whipping in lieu of any punishment to which he may be liable for such offence under the said Act.

Bom. IV of 1890.

(*2*) Whoever commits an offence punishable under clause (*a*) of section 61D of the Bombay District Police Act 1890, may be punished with whipping in lieu of any punishment to which he may be liable for such offence under the said Act.

Repeal of Bom. XI of 1941.

Bom. XI of 1941.

4. The Bombay (Emergency Powers) Whipping Act, 1941, is hereby repealed.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V, page 99 ; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

[2] The word "section" was substituted for the word "sections" by Bom. 53 of 1949, s. 3, Second Schedule.

THE BOMBAY AGRICULTURAL DEBTORS RELIEF ACT, 1947.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

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PROCEDURE FOR ADJUSTMENT OF DEBTS.

4. Application for adjustment of debts.
5. Every creditor and debtor to file a true and correct statement before Court.
6. Application by debtor jointly and severally liable.
7. Assignees from non-debtor not entitled to benefit of this Act.
8. Application for recording settlement.
9. Settlement during pendency of proceedings before Court.
10. Certain settlements to be void.
11. Application under section 4 or 8 to be made only in respect of debtors, whose debts are not more than Rs. 15,000.
12. Withdrawal of applications.
13. Consolidation of applications.
13A. Power of Civil Judge to refer for disposal certain applications to Joint Civil Judge.
14. Service of notice on debtors, and creditors to submit statement of debts.
15. Debts in respect of which no application for adjustment or settlement is made to be void.
16. Duties of debtors and creditors.
17. Preliminary issues.
18. [*Repealed.*]
19. Transfer of pending suits, appeals, applications, and proceedings to the Court.
20. Taking of accounts.
21. Examination of creditor and debtor.
22. Mode of taking accounts
23. In certain cases rent may be charged in lieu of profits.
24. Power of Court to declare transfer purporting to be sale to be in nature of mortgage.
25. Provisions of section 24 not to apply to certain transfers and transferees.
26. Notice to Collector, Co-operative Societies, Registrar, local authorities and others.
27. Court's duty to determine particulars, value, etc., of property.
28. Fraudulent alienations or incumbrances void.
29. Value of property of debtor to be determined by Court in prescribed manner.
30. Paying capacity.
31. Debts payable by debtors to be scaled down.
32. Award.

SECTIONS.

33. Court to prepare scheme for adjustment of debts through Provincial Land Mortgage Bank.
34. No recovery of amount in excess of debts scaled down.
35. Debts not to be scaled down in case of collusion.
36. *Ex parte* proceedings if any party does not appear.
37. Re-opening of award and readjustment of debts.
38. Award to be registered: how executed.
39. Postponement of payment of instalment in case of remissions, etc.
40. No alienation by debtor before discharge of debts valid.
41. Court may order sale of debtor's property in liquidation of his debt.
42. Pleaders, etc., excluded from appearance.
43. Appeals.
43A. Power of District Judge to refer for disposal certain appeals to Assistant Judge.
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CHAPTER IIA.

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47. Court to declare debtor insolvent in certain circumstances.
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51A. Bar of civil suits or proceedings.
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54. Power of State Government to authorize any person to advance loans to debtors.
55. Rules.
56. Repeal of Act XVII of 1879 and Bom. XXVIII of 1939.
57. Special provision for application under section 4 in respect of debts due to creditor in merged territory.
58. Special provision for application under section 24 in respect of land situate in merged territories.

BOMBAY ACT No. XXVIII OF 1947.[1]

[THE BOMBAY AGRICULTURAL DEBTORS RELIEF ACT, 1947.]

[*27th May 1947*]

Amended by Bom. 70 of 1948.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 37 of 1950.
" " " 41 of 1951.
" " " 19 of 1952.
" " " 18 of 1953.
" " " 22 of 1953.
" " " 37 of 1955.

An Act to consolidate and amend the law for the Relief of Agricultural Debtors in the Province of Bombay.

WHEREAS it is expedient to consolidate and amend the law for the relief of agricultural debtors in the Province of Bombay and for certain other purposes specified herein ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Agricultural Debtors Relief Act, 1947.

(*2*) It extends to the whole of the [2][State] of Bombay except the City of Bombay.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " award " means an award made under sub-section (*4*) of section 8 or section 9, 32, or 33 or as confirmed or modified by the Court in appeal ;

Bom. VII of 1925.

(*2*) " Co-operative society " means a society registered under the provisions of the Bombay Co-operative Societies Act, 1925 ;

(*3*) " Court " means the court of the Civil Judge (Senior Division), having ordinary jurisdiction in the area where the debtor ordinarily resides and if there is not such Civil Judge, the court of the Civil Judge (Junior Division), having such jurisdiction [3][and includes any court to which an application may be referred to for disposal under section 13A] ;

(*4*) " debt " means any liability in cash or kind, whether secured or unsecured due from a debtor whether payable under a decree or order of any civil court or otherwise [4][and includes mortgage money the payment of which is secured by the usufructuary mortgage of immoveable property] but does not include arrears of wages payable in respect of agricultural or manual labour ;

(*5*) " debtor " means—

(*a*) an individual—

(*i*) who is indebted ;

(*ii*) who holds land used for agricultural purposes or has held such land at any time not more than 30 years before the 30th January 1940, which has been transferred whether under an instrument or not and which transfer is in the nature of a mortgage although not purporting to be so ;

(*iii*) who has been cultivating land personally for the cultivating seasons in the two years immediately preceding the date of the coming into operation of this Act or of the establishment of the Board concerned under the repealed Act ; and

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V, page 65 ; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] These words were added by Bom. 70 of 1948, s. 2(*1*).

[4] These words were inserted, *ibid.*, s. 2(*2*).

(*iv*) whose annual income from sources other than agriculture and manual labour does not exceed 33 per cent. of his total annual income or does not exceed Rs. 500, whichever is greater :

(*b*) an undivided Hindu family—

(*i*) which is indebted ;

(*ii*) which holds land used for agricultural purposes or has held such land at any time not more than 30 years before the 30th January 1940, which land has been transferred whether under an instrument or not and which transfer is in the nature of a mortgage although not purporting to be so ;

(*iii*) which has been cultivating land personally for the cultivating seasons in the two years immediately preceding the date of the coming into operation of this Act or of the establishment of the Board concerned under the repealed Act ; and

(*iv*) the annual income of which from sources other than agricultural and manual labour does not exceed 40 per cent. of its total annual income and the aggregate of such incomes of the members of which does not exceed Rs. 1,500.

Explanation.—[1][*I*] For the purposes of this clause "agriculture" includes horticulture, the raising of crops or garden produce, dairy farming, poultry farming, stock breeding and grazing, but does not include leasing of land or cutting only of wood ;

[2][*Explanation II.*—In the case of—

(*a*) any person who dies leaving as his heir, a widow or a minor or a person who is subject to physical or mental disability, or

(*b*) an undivided Hindu family, in which there are no adult male co-parceners capable of cultivating the land personally,

the income derived by such heir or family by the lease of land for an agricultural purpose shall, notwithstanding anything contained in Explanation I, be deemed to be income from agriculture.]

[3][(*6*) "financing of crops" means advancing of loans for the raising of crops during the ploughing season or later for ploughing, sowing, harrowing, weeding, harvesting, purchase of seeds, manure or for such other purposes as may be prescribed, such loans being repayable during the season when the crops for which the loans were advanced are harvested] ;

(*7*) "holder" means a holder as defined in clause (*11*) of section 3 of the Bombay Land Revenue Code, 1879, and includes a holder of land held for the performance of service useful to Government or village community which service is actually being performed but does not include a holder of any land held on behalf of a religious or charitable institution ; and the expression "to hold land" shall be construed accordingly ; Bom. V of 1879.

[4][(*7a*) "merged State bank" means a bank incorporated as such in merged territories and notified by the State Government in the *Official Gazette* for the purposes of this Act as a merged State bank ;]

(*8*) "prescribed" means prescribed by rules ;

(*9*) "repealed Act" means the Bombay Agricultural Debtors Relief Act, 1939 ; Bom. XXVIII of 1939.

(*10*) "resource society" shall have the same meaning as it has in the Bombay Co-operative Societies Act, 1925 ; Bom. VII of 1925.

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[1] This Explanation was numbered as Explanation I by Bom. 70 of 1948, s. 2(3).

[2] This Explanation was added, *ibid.*

[3] This clause was substituted for the original, *ibid.*, s. 2 (4).

[4] Clause (*7a*) was inserted by Bom. 37 of 1950, s. 2.

(*11*) " rules " means rules made under section 55 ;

(*12*) " scheduled bank " means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 ; II of 1934.

(*13*) " Seasonal finance " means advancing of loans for such purposes as may be prescribed, such loans being repayable on or before the 15th May following ;

(*14*) " to cultivate personally " means to cultivate by one's own labour or by the labour of any member of one's family or by servants or hired labour under one's personal supervision or the personal supervision of any member of one's family.

Explanation I.—If a person who was cultivating personally dies leaving as his heir a widow or a minor or a person who is subject to physical or mental disability, such heir shall be deemed to cultivate the land personally notwithstanding the fact that the land is cultivated on behalf of such heir by servants or hired labour or by tenants.

Explanation II.—In the case of an undivided Hindu family, the land shall be deemed to have been cultivated personally if it is cultivated by any member of such family. If there are no adult male co-parceners in such family capable of cultivating the land personally, such family shall be deemed to be cultivating the land personally if the land is cultivated on behalf of such family by servants or hired labour or by tenants.

(*15*) Words and expressions used in this Act, but not defined, have the meanings assigned to them in the Code of Civil Procedure, 1908, or the Bombay Land Revenue Code, 1879, as the case may be. V of 1908, Bom. V of 1879.

3. Save as otherwise expressly provided, nothing in this Act shall affect the debts and liabilities of a debtor falling under the following heads, namely :— Savings

(*i*) any revenue or tax payable to Government or any other sum due to it by way of loan or otherwise,

(*ii*) any tax payable to a local authority or any other sum payable to such authority by way of loan or otherwise,

(*iii*) any sum due to a co-operative society,

(*iv*) any sum advanced solely for the purpose of financing of crops as provided in the repealed Act or for the purpose of seasonal finance as provided in this Act,

(*v*) any sum due under a decree or order for maintenance passed by a competent Court, [1]

(*vi*) any sum due to a scheduled bank, [2][and

(*vii*) any sum due to a merged State bank.]

CHAPTER II.

PROCEDURE FOR ADJUSTMENT OF DEBTS.

4. (*1*) Any debtor ordinarily residing in any local area for which a Board was established under section 4 of the repealed Act on or after the 1st February 1947, or his creditor may make an application before the 1st August 1947 to the Court for the adjustment of his debts. Application for adjustment of debts.

(*2*) Every application made under sub-section (*1*) shall be in writing in the prescribed form and shall be signed, verified and presented in the prescribed manner.

(*3*) Notwithstanding anything contained in section 3 an application made under this section shall contain the amounts and particulars of all debts specified in that section due by the debtor.

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[1] The word " and " was deleted by Bom. 37 of 1950, s. 3.

[2] This word and clause (*vii*) were added, *ibid.*

Every creditor and debtor to file a true and correct statement before Court.

5. (*1*) Notwithstanding the fact that no application has been filed under section 4—

(*a*) every creditor, on being required to do so by notice in writing by any of his debtors, shall, within two months from the date of the receipt of such notice, file before the Court a true and correct statement of all his claims against such debtor, and shall at the same time send a copy thereof to such debtor, and

(*b*) every debtor, on being required to do so by notice in writing by any of his creditors, shall, within two months from the date of the receipt of such notice, file before the Court a true and correct statement—

(*i*) of all the debts owed by such debtor;

(*ii*) whether he holds any land used for agricultural purposes and whether he has been cultivating land personally;

(*iii*) of his income from agriculture and from sources other than agriculture in the year preceding the date of the notice.

The debtor shall at the same time send a copy of such statement to such creditor:

Provided that the Court may, for sufficient cause, extend, from time to time, the period within which the creditor or the debtor, as the case may be, may file such statement.

(*2*) Every debtor or creditor giving a notice under sub-section (*1*) shall at the same time send a copy thereof to the Court.

(*3*) In awarding the costs of any proceeding in respect of any application made under section 4 the Court may, on being satisfied that the statement required to be filed under sub-section (*1*) was, without sufficient cause, not filed within the time specified therein or within the period extended under the proviso to sub-section (*1*) or incorrectly filed, direct the party in default to bear the whole or any portion of the costs of such proceeding.

Application by debtor jointly and severally liable.

6. (*1*) If the payment of a debt due by a debtor is guaranteed by a surety or if a debtor is otherwise jointly and severally liable for any debt along with any other person and if the surety or such other person is not a debtor, the debtor may make an application under section 4 for relief in respect of such debt and the Court may after consideration of the facts and circumstances of the case proceed with the adjustment of debts under this Act in so far as such applicant is concerned.

(*2*) Whenever the debts due by a debtor which are guaranteed by a surety are adjusted under sub-section (*1*), the surety shall be discharged from liability in respect of the debts or portion of the debts of such debtor which are extinguished under sub-section (*1*) of section 15, sub-section (*3*) of section 17, sub-section (*5*) of section 26, section 34 or sub-section (*2*) of section 35; and the surety shall not be entitled to proceed against the debtor in respect of such debts or portion.

Assignees from non-debtor not entitled to benefit of this Act.

7. No application shall lie under section 4 for adjustment of any debt due from a debtor to whom such debt has been transferred or assigned after the 1st January 1938 by any person who is not himself a debtor.

Application for recording settlement.

8. (*1*) If any debtor and any or all of his creditors arrive at a settlement in respect of any debt due by the debtor to the creditor, the debtor or any of the creditors may, within thirty days from the date of such settlement, make an application to the Court for recording such settlement.

(*2*) Every such application shall be in the prescribed form and shall be signed and verified in the prescribed manner.

(*3*) On receipt of such application the Court shall, after giving notice to the creditor or the debtor, as the case may be, and after making such enquiry as it thinks fit, if it is satisfied that the settlement arrived at is *bona fide* and voluntary and is not made with intent to defeat or delay any of the creditors of the debtor, and is in the interest of the debtor, [1]* * * * * * * * * * * * *record such settlement and certify the same. Every such settlement so recorded and certified shall be binding upon the parties thereto and shall not, save as otherwise hereinafter provided, be re-opened.

(*4*) After the Court has recorded and certified a settlement under sub-section (*3*), the Court shall call upon the debtor to make a declaration whether there are any other debts due by the debtor which are not included in the settlement. If the debtor makes a declaration that there are no such debts, the Court shall make an award in terms of such settlement.

(*5*) If the Court is satisfied, after recording such settlement, that there are other debts due from the debtor which are not included in the settlement, the Court shall treat the application made under sub-section (*1*) as an application for adjustment of debts under section 4.

Settlement during pendency of proceedings before Court.

9. Notwithstanding anything contained in the preceding sections, if during the pendency of proceedings before the Court or the Court in appeal, as the case may be a settlement is arrived at between a debtor and all his creditors and if such Court is satisfied that the settlement has been made by the debtor voluntarily and is for his benefit, such Court may make an award in terms of such settlement.

Certain settlements to be void.

10. Every settlement of a debt due from a debtor to any creditor, which is not certified by the Court under section 8, or in terms of which no award has been made under section 9, shall be void and shall not be recognised by any Court for any purpose whatsoever.

Application under section 4 or 8 to be made only in respect of debtor whose debts are not more than Rs.15,000.

11. No application under section 4 or 8 shall be entertained by the Court on behalf of or in respect of any debtor, unless the total amount of debts due from him on the date of the application is not more than Rs. 15,000.

Withdrawal of applications.

12. An application for adjustment of debts under section 4 or an application for recording a settlement under section 8 shall not be withdrawn without the leave of the Court.

Consolidation of applications.

13. Where two or more applications for adjustment of debts under section 4 are presented by or against the same debtor, all such applications shall be consolidated. Where such separate applications are presented [2][by or] against joint debtors, all such applications shall be heard together.

Power of Civil Judge to refer for disposal certain applications to Joint Civil Judge.

[3][**13A.** A Civil Judge may refer for disposal any application filed under section 4 or 8 to a Joint Civil Judge.]

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[1] The words, brackets, letters, and figures "and that the debtor is a person who fulfills the conditions referred to ir clauses (*a*) and (*b*) of sub-section (*1*) of section 17" were deleted by Bom. 37 of 1955, s. 2.

[2] These words were inserted by Bom. 70 of 1948, s. 3.

[3] This section was inserted, *ibid.*, s. 4.

Service of notice on debtors and creditors to submit statement of debts.

14. On receipt of an application for adjustment of debts, the Court shall—

(*a*) give notice to the debtor (unless the debtor is himself an applicant) and to every creditor (other than the creditor who is himself an applicant) whose name and address are given in the application, and

(*b*) publish a general notice,

requiring the debtor and all creditors to submit a statement in the prescribed form within one month from the date of the service of the notice or the publication of the general notice, whichever is later:

Provided that if the Court is satisfied that the debtor or any creditor is for good and sufficient cause unable to comply with the notice within the time specified therein it may extend the period for the submission of the statement.

Debts in respect of which no application for adjustment or settlement is made to be void.

15. (*1*) Every debt due from a debtor in respect of which no application has been made under section 4 within the period specified in the said section 4 or in respect of which no application for recording a settlement is made under section 8 within the period specified in the said section 8 or in respect of which an application made to the Court is withdrawn under section 12 and no fresh application is made under section 4 and every debt due from such debtor in respect of which a statement is not submitted to the Court by the creditor in compliance with the provisions of section 14 shall be extinguished.

(*2*) Nothing in this section shall apply to any debt due from any person who has by his declaration, act or omission intentionally caused or permitted his creditor to believe that he is not a debtor for the purposes of this Act or that no application under section 4 can be entertained in respect of any debt owed by such person to such creditor by reason of the provisions of section 11.

Duties of debtors and creditors.

16. (*1*) Every debtor by or against whom an application is made under section 4 or who is a party to an application made under section 8 shall produce all books of accounts and shall give such inventories of his property and such lists of his creditors and debtors and of the debts due from and to him, submit to such examination in respect of his property or his creditors, attend at such time before the Court, and generally do all such things as may be required by the Court or as may be prescribed.

(*2*) It shall be the duty of every creditor to produce such books of accounts, to submit to such examination and to supply such information in respect of the debt due to him by the debtor and the securities held by him, as may be required by the Court or as may be prescribed.

Preliminary issues.

17. (*1*) On the date fixed for the hearing of an application made under section 4, the Court shall decide the following points as preliminary issues:—

(*a*) whether the person for the adjustment of whose debts the application has been made is a debtor;

(*b*) whether the total amount of debts due from such person on the date of the application exceeds Rs. 15,000.

(*2*) If the Court finds that such person is not a debtor or that the total amount of debts due from such person on the date of the application is more than Rs. 15,000 the Court shall dismiss the application forthwith:

Provided that before the application is so dismissed the creditors or any of them may remit any specific portion of their claim so as to reduce the total amount of the debts of all the creditors due from such person on the date of the application to a sum not exceeding Rs. 15,000. In such case the Court shall not dismiss the application but shall proceed further with the same.

(*3*) The portion of the debts in respect of which the claim is remitted under sub-section (*2* shall be extinguished.

[1][*Explanation.*—For the purposes of this section, the expression " the date of the application " shall mean the date of an application which has been made within the period prescribed under section 4 and where there are two or more applications made for adjustment of debts of the same debtor, the date of the last of such applications.]

18. [*Court-fee to be refunded to creditor.*] *Rep. by Bom. 70 of 1948, s. 6.*

Transfer of pending suits, appeals, applications and proceedings to the Court.

19. (*1*) All suits, appeals, applications for execution and proceedings [2][including revisional proceedings pending before a District Judge under section 53 of the Dekkhan Agriculturists' Relief Act, 1879] in respect of any debt pending in any civil or revenue court shall, if they involve the questions whether the person from whom such debt is due is a debtor and whether the total amount of debts due from him [3]* * * * exceeds Rs. 15,000, be transferred to the Court.

XVII of 1879.

(*2*) When an application for adjustment of debts made to a Court under section 4 or a statement submitted to a Court under section 14 includes a debt in respect of which a suit, appeal, application for execution or proceeding [4][liable to be transferred under sub-section (*1*)] is pending before a civil or revenue court, the Court shall give notice thereof to such other court. On receipt of such notice, such other court shall transfer the suit, appeal, application or proceeding, as the case may be, to the Court.

(*3*) When any suit, appeal, application or proceeding is transferred to the Court under sub-section (*1*) or sub-section (*2*), the Court shall proceed as if an application under section 4 had been made to it.

(*4*) If the Court, to which any suit, appeal, application or proceeding is transferred under sub-section (*1*) or sub-section (*2*), decides the preliminary issue mentioned in clause (*a*) of sub-section (*1*) of section 17 in the negative or that mentioned in clause (*b*) of the said sub-section (*1*) in the affirmative, it shall retransfer the suit, appeal, application or proceeding to the court from which it had been transferred to itself after the disposal and subject to the result of the appeal where an appeal is filed, and after the expiry of the period prescribed for an appeal where no appeal is filed.

(*5*) When any suit, appeal, application or proceeding is retransferred to the court under sub-section (*4*), the said court shall proceed with the same.

[5][(*6*) When such suit, appeal, application or proceeding involves the determination of any issue entirely unconnected with the adjustment of debts, the transfer of such suit, appeal, application or proceeding under this section shall not empower the Court to determine the said issue and the determination of such issue shall be made as if the transfer of the suit, appeal, application or proceeding was not made under this section.

(*7*) When any question arises regarding the validity of the transfer or retransfer under this section of any suit, appeal, application or proceeding or if any question

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[1] This Explanation was added by Bom. 70 of 1948, s. 5.
[2] These words and figures were substituted for the words " other than revisional " *ibid.*, s. 7 (*1*).
[3] The words " on the date of the application " were deleted, *ibid.*
[4] These words, brackets and figure were substituted for the words "other than revisional", *ibid.*, s. 7 (*2*).
[5] Sub-sections (*6*) and (*7*) were added, *ibid.*, s. 7 (*3*).

arises whether any issue is or is not entirely unconnected with the adjustment of debts, the Court before which such question arises, if it is not the District Court, may refer the question for decision of the District Court. If such question arises before the District Court, the District Court itself shall decide the same. The decision of the District Court in either case shall be final.]

Taking of accounts.

20. If the Court finds the person making an application under section 4 or the person against whom an application is made under the said section 4 to be a person—

(*a*) who is a debtor, and

(*b*) the total amount of debts due from whom on the date of the application is not more than Rs. 15,000,

the Court shall proceed to take accounts in the manner hereinafter provided.

Examination of creditor and debtor.

21. In an application for the adjustment of debts if the amount of the creditor's claim is disputed, the Court shall, when taking accounts, examine both the creditor and the debtor as witnesses, unless for reasons to be recorded the Court deems it unnecessary so to do.

Mode of taking accounts.

22. Notwithstanding any agreement between the parties or the persons (if any) through whom they claim, as to allowing compound interest or setting off the profits of mortgaged property without an account in lieu of interest, or otherwise determining the manner of taking the account, and notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation, the Court shall inquire into the history and merits of the case and take account between the parties from the commencement of the transactions subsisting between the parties and the persons (if any) through whom they claim, out of which the claim has arisen and determine the amount due to each of the creditors at the date of the application made under section 4, according to the following rules, namely :—

(*1*) (*a*) Separate accounts of principal and interest shall be taken;

(*b*) In the account of principal there shall be debited to the debtor only such money as may from time to time have been actually received by him or on his account from the creditor, and the price of goods, if any, sold to him by the creditor;

(*c*) In the accounts of principal and interest there shall also be debited the amounts, if any, respectively due for principal (including costs) and interest under any decree or order passed by a competent court in respect of any debt :

Provided that if such decree or order does not specify the amount of principal and interest separately or does not contain any material for determining the same, two-third and one-third of the amount awarded by such decree or order shall for purposes of this clause, be deemed to be the amount awarded on account of principal (including costs) and interest, respectively.

(*2*) In the case of transactions which commenced before the 1st January 1931 the Court shall take the account up to the date of the institution of the application and in the account of interest there shall be debited to the debtor, simple interest on the balance of principal for the time being outstanding at the rate agreed upon between the parties or at the rate allowed under any decree passed between the parties, or at a rate not exceeding 12 per cent. per annum, whichever is the lowest. The amount found due in respect of principal as well as in respect of interest shall, each separately, be reduced by 40 per cent. notwithstanding that a decree or order of a civil court was passed in respect of any such amount or portion thereof. The amounts so reduced shall be taken to represent the amounts due in respect of principal and interest on the date of the institution of the application.

(*3*) In the case of transactions which commenced on or after the 1st January 1931 but before the 1st January 1940 in the account of interest there shall be debited to the debtor, simple interest on the balance of principal for the time being

outstanding at the rate agreed upon between the parties, or at the rate allowed under any decree passed between the parties, or at a rate not exceeding 9 per cent. per annum, whichever is the lowest. The amount found due on the date of the institution of the application in respect of principal as well as interest shall each separately be reduced by 30 per cent. notwithstanding that a decree or order of a civil court was passed in respect of any such amount or portion thereof. The amounts so reduced shall be taken to represent the amounts due in respect of principal and interest on the date of the institution of the application.

(*4*) In the case of transactions which commenced on or after the 1st January 1940, in the account of interest there shall be debited to the debtor simple interest on the balance of principal for the time being outstanding at the rate agreed upon between the parties, or at the rate allowed under any decree passed between the parties, or at rate not exceeding 6 per cent. per annum, whichever is the lowest.

(*5*) All money paid by or on account of the debtor to the creditor or on his account and all profits, service or other advantages of every description received by the creditor in the course of the transactions (estimated, if necessary, at such money-value as the Court in its discretion may determine) shall be credited first in the account of interest, and when any payment is more than sufficient to discharge the balance of interest due at the rate specified in rule (2), (3) or (4), as the case may be, the residue of such payment shall be credited to the debtor in the account of principal.

(*6*) The accounts of principal and interest shall be made up to the date of the institution of the application, and the aggregate of the balance, if any, appearing due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date, except when the balance appearing due on the interest-account exceeds that appearing due on the principal-account, in which case, double the latter balance shall be deemed to be the amount then due :

Provided that where the transactions between the parties have commenced more than 30 years before the 30th January 1940 any settlement of accounts which has been last arrived at between the parties before the said period of 30 years and which is in writing and bears the signature of the debtor or the person through whom the liability is derived shall be accepted as binding between the parties and no inquiry into the history and merits of the case shall be made prior to the date of such settlement.

23. Where any mortgaged property is in the possession of the mortgagee or his tenants other than the mortgagor and the Court is unable to determine what profits have actually been received, it may fix a fair rent for such property and charge to the mortgagee such rent as profits for the purpose of section 22 : **In certain cases rent may be charged in lieu of profits.**

Provided that, if it be proved that in any year there was any suspension or remission of rent or land revenue of such land under section 84A of the Bombay Land Revenue Code, 1879, an abatement of the whole or part of such amount may be allowed for the year. **Bom. of 1879.**

24. (*1*) Notwithstanding anything to the contrary contained in any law, custom, or contract, whenever it is alleged during the course of the hearing of an application made under section 4 that any transfer of land by a person whose debts are being adjusted under this Act or any other person through whom he inherited it was a transfer in the nature of a mortgage, the Court shall declare the transfer to be a mortgage, if the Court is satisfied that the circumstances connected with that transfer showed it to be in the nature of a mortgage. **Power of Court to declare transfer purporting to be sale to be in nature of mortgage.**

(*2*) Any agricultural labourer may make an application before the 1st August 1947 to the Court that any transfer of land by him or any other person through whom he inherited it was a transfer in the nature of a mortgage. On hearing the application, the Court shall, notwithstanding anything to the contrary contained in any law, custom, or contract, declare the transfer to be a mortgage, if it is satisfied that the circumstances connected with the transfer showed it to be in the nature of a mortgage. When the Court makes any such declaration, the applicant shall, notwithstanding anything contained in the definition of " debtor " in sub-section (*5*) of section 2, be deemed to be a debtor for the purposes of this Act and the Court shall proceed as if an application under section 4 had been made to it.

Provisions of section 24 not to apply to certain transfers and transferees.

25. Nothing in section 24 shall apply to—

(*i*) any transfer which has been [1][finally] adjudged to be a transfer other than a mortgage by a decree of a court of competent jurisdiction or by a Board established under section 4 of the repealed Act; and

(*ii*) any *bona fide* transferee for value without notice of the real nature of such transfer or his representative where such transferee or representative holds under a registered deed executed on or before the 15th day of February 1939.

Notice to Collector, co-operative societies, Registrar, local authorities and others.

26. (*1*) On receipt of an application for adjustment of debts, the Court shall give notice to the Collector requiring him to state to the Court within such time as may be fixed by it the amount of the debt due by the debtor to Government.

(*2*) The Court shall also give similar notice to any local authority, co-operative society [2][scheduled bank or merged State bank] to which any debt may be due by the debtor and also to any person who is entitled to maintenance from the debtor, under a decree or order passed by a competent Court. In the case of any debt due to a co-operative society, the Court shall also give notice to the Registrar of Co-operative Societies or to such officer as the Registrar may nominate in this behalf.

(*3*) On receipt of such notice the Collector, the local authority, the co-operative society [3][the scheduled bank, or the merged State bank] or the person entitled to maintenance, as the case may be, shall, within such time as may be fixed by the Court, from time to time submit a statement to the Court showing the total amount of the debt due by the debtor as also any recurring liability against such debtor in respect of the liability for maintenance under the decree or order.

(*4*) The Collector [4][the co-operative society, the scheduled bank and the merged State bank] shall also furnish a statement to the Court showing the amount of remission which the [5][State] Government, the co-operative society, [3][the scheduled bank or the merged State bank], as the case may be, is willing to give in respect of the debt.

(*5*) The portion of any debt remitted under sub-section (*4*), and unless the Court otherwise directs any debt or portion thereof in respect of which no statement is submitted under sub-section (*3*), shall be extinguished.

Court's duty to determine particulars, value, etc., of property.

27. After taking accounts under section 22 the Court shall in the manner hereinafter provided determine—

(*1*) the particulars of the property belonging to the debtor,

(*2*) the value of the said property,

(*3*) the particulars of any incumbrances on the said property, and

(*4*) the paying capacity of the debtor.

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[1] This word was inserted by Bom. 70 of 1948, s. 8.

[2] These words were substituted for the words " or scheduled bank " by Bom. 37 of 1950, s. 4.

[3] These words were substituted for the words " or the scheduled bank ", *ibid.*

[4] These words were substituted for the words " the Co-operative Society and the scheduled bank " *ibid.*

[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Fraudulent alienations or incumbrances void.

28. (*1*) If in the course of the hearing of an application made under section 4, the Court finds that the debtor has made an alienation of property or created any incumbrance thereon with intent to defeat or delay any of his creditors, the Court shall, by notice, summon the debtor and the person in whose favour the alienation or incumbrance is made or created to appear before it on a day to be specified in the notice.

(*2*) On the day specified in the notice or such other day to which the hearing may be adjourned the Court shall hear the parties [1][and record evidence as may be produced] and if it is satisfied that the alienation was made or the incumbrance was created with intent to defeat or delay any of the creditors of the debtor, the Court shall declare the alienation or incumbrance to be void.

(*3*) Nothing in this section shall impair the rights of an alienee or the holder of an incumbrance in good faith and for valuable consideration.

Value of property of debtor to be determined by Court in prescribed manner.

29. (*1*) Subject to the provisions of sub-sections (*2*), (*3*) and (*4*), the value of the property and other assets of a debtor for the purposes of ascertaining the paying capacity of the debtor under section 27 shall be determined by the Court in the prescribed manner.

V of 1908.

(*2*) The property or assets which are exempt from attachment in execution of a decree of a civil court under the Code of Civil Procedure, 1908, shall not be taken into account.

(*3*) The amount of the debts mentioned in section 3 shall be deducted.

(*4*) The market value of the lands, which under any law for the time being in force, are not transferable or alienable except with the previous sanction of the Collector or the [2][State] Government, shall be calculated in such manner as may be prescribed.

Paying capacity.

30. The paying capacity of the debtor, shall, for the purposes of this Act, be deemed to be sixty per cent. of the value of all the property of the debtor :

Provided that when any portion of such property yields income but the market value of such portion cannot be determined, the value of such portion shall be the amount of the income capitalized at six per cent. per annum.

Debts payable by debtors to be scaled down.

31. (*1*) Notwithstanding any law, custom, contract, award or decree of a court to the contrary the amounts found due under section 22 from a debtor shall be further scaled down in the manner hereinafter provided.

(*2*) If all the debts found due by a debtor after taking accounts under section 22 are unsecured, such debts shall be further scaled down *pro rata* to the paying capacity of the debtor.

(*3*) If all the debts found due by a debtor after taking accounts under section 22, are secured debts, and the total amount of such debts is more than sixty per cent. of the value of the property belonging to the debtor, such debts shall be further scaled down *pro rata* to the paying capacity of the debtor.

(*4*) If the debts found due by a debtor after taking accounts under section 22 are both secured and unsecured, and if the total amount of the secured debts is more than sixty per cent. of the value of the property on which such debts are secured, the secured debts shall be further scaled down *pro rata* to sixty per cent. of the value of the property on which such debts are secured and the unsecured debts shall be further scaled down *pro rata* to sixty per cent. of the value of the other property belonging to the debtor over which no debts are secured.

[1] These words were inserted by Bom. 70 of 1948, s. 9.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Award.

32. (*1*) After determining the amount of debts scaled down in the manner provided in section 31 the Court shall, save as otherwise provided in section 33, make an award.

(*2*) The award shall be in the prescribed form and shall be drawn up subject to the following provisions :—

(*i*) the amount of the secured debts scaled down shall be charged on the properties on which they may have been secured ;

(*ii*) subject to clause (*i*) the amount of unsecured debts shall be charged on all the properties of the debtor [1][unless all the creditors declare in writing that the unsecured debts due may not be charged on any of the properties of the debtor] ;

(*iii*) in fixing the priority in which debts shall be paid the following order shall be followed :—

(*a*) debts due to Government, which are charged on the immovable property belonging to the debtor or which are recoverable as the current year's land revenue.

(*b*) debts due to local authorities, which are charged on the immovable property belonging to the debtor or which are recoverable as the current year's dues.

(*c*) loans given by resource societies or by persons authorized to advance loans under section 78 of the repealed Act or section 54 of this Act for the financing of crops under the repealed Act or for seasonal finance under this Act after the 30th January 1940 and other loans given for financing crops after the 1st January 1939 and before the 30th January 1940.

(*d*) secured debts in order of priority,

(*e*) debts due to Government, local authorities and other bodies including co-operative societies, and recoverable as arrears of land revenue,

(*f*) other debts due to co-operarive societies,

[2][(*ff*) debts due to merged State banks,]

(*g*) unsecured debts :

Provided that in the case of unsecured debts they shall be paid *pro rata* ;

(*iv*) the total annual instalments shall not exceed twelve :

Provided that in fixing the amount of instalments in which the debts shall be paid the Court shall ascertain the net annual income of the debtor and the annual instalments payable by the debtor shall not exceed his net annual income.

Explanation.—For the purposes of this clause, the net annual income of the debtor shall mean the balance of his annual income after deducting (*i*) such sum as may be considered necessary for the payment of the liability, if any, imposed on the debtor under a decree or order for maintenance passed by a competent Court, (*ii*) such sum as may be considered necessary for the maintenance of the debtor and his dependants, and (*iii*) the sum required by the debtor to pay the assessment and taxes in respect of the current year to Government and to local authorities and to pay off loans borrowed for the purpose of the financing of crops under the repealed Act or seasonal finance under this Act ;

(*v*) the Court may pass an order for the delivery of possession of any property notwithstanding any law or contract to the contrary ;

(*vi*) the rate of interest shall not exceed 6 per cent. per annum or such less rate as may be notified in this behalf by the [State] Government or the rate agreed upon between the parties when the debt was originally incurred or the rate allowed by the decree in respect of such debt, whichever is the lowest.

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[1] This portion was added by Bom. 37 of 1950, s. 5.
[2] Sub-section (*ff*) was inserted, *ibid.*
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Court to prepare scheme for adjustment of debts through Provincial Land Mortgage Bank.

33. (*1*) Where the amount of debts of the debtor as scaled down under section 31 by it exceeds half the value of the debtor's immovable property as determined by it, the Court shall intimate to the creditors the amount of the said debts of the debtor and the said value of the debtor's immovable property and call upon them to state in writing within a specified period not exceeding one month whether they agree to the further scaling down of the said debts so as to reduce them to a sum not exceeding half the said value of the immovable property of the debtor. If [1][a majority in number and three-fourth in value of all the creditors] agree to the further scaling down of the debts, the Court shall make an order directing the debtor to pay the amount of such debts so agreed upon within a period of one month from the date of the order.

[2][(*2*) Unless the debtor pays the amount of such debts within a period of one month from the date of the order or such extended period not exceeding one month as the Court may allow and produces the creditor's receipt therefor, the Court shall prepare a scheme embodying the terms of an award to be passed under this section for adjustment of the debts and shall send the scheme to the Primary Land Mortgage Bank situated in the local area and if there is no such Primary Land Mortgage Bank in that local area, to the Bombay Provincial Co-operative Land Mortgage Bank, for acceptance within a period of two months from the date of receipt by it of the scheme. If the Primary Land Mortgage Bank or the Bombay Provincial Co-operative Land Mortgage Bank, as the case may be, agrees to accept the scheme, or does not inform the Court within the period of the said two months that it does not agree to accept the scheme, the Court shall make an award in the prescribed form directing that the Land Mortgage Bank concerned shall pay the creditors in cash the debt as finally scaled down or if the creditors so desire, in bonds issued by the Bombay Provincial Co-operative Land Mortgage Bank, such bonds being guaranteed by the State Government, for such amount in full satisfaction of all the debts due to them from the debtor. The Court shall further direct that such amount shall be charged on all the immovable property of the debtor.]

[3][(*2A*) (*a*) Where any award made under sub-section (*1*) of section 55 of the repealed Act or under sub-section (*2*) of this section has either before or after the Bombay Agricultural Debtors' Relief (Amendment) Act, 1948, has come into force been wrongly forwarded for payment to the creditors of the debt as finally scaled down to any Primary Land Mortgage Bank which under its by-laws was not competent to make payment to the creditors, it shall be lawful to the Court notwithstanding anything contained in this Act, on application made by the creditor concerned and after holding such inquiry as it deems fit, to direct that the said award be forwarded to the Primary Land Mortgage Bank for the local area concerned competent to make the payment or to the Bombay Provincial Co-operative Land Mortgage Bank, as the case may be, for making payment in accordance with this section.

Bom. LXX of 1948.

(*b*) The award directed to be forwarded under clause (*a*) shall not be deemed to have been wrongly forwarded only on the ground that it was originally forwarded to a Primary Land Mortgage Bank not competent to make the payment, and shall, notwithstanding anything contained in this Act, be deemed to have been duly forwarded under sub-section (*2*) and shall be executed in accordance with the provisions of this Act.]

[4][(*3*) The Bank shall be entitled to recover the amount due to it from the debtor in such annual instalments as may be fixed by the Court. The amount of principal shall carry and be recoverable together with interest at such rate not

[1] These words were substituted for the words " all the creditors " by Bom. 70 of 1948, s. 10 (*1*).
[2] Sub-section (*2*) was substituted for the original by Bom. 37 of 1950, s. 6.
[3] Sub-section (*2A*) was inserted by Bom. 70 of 1948, s. 10 (*2*).
[4] This sub-section was substituted for the original, *ibid*, s. 10 (*3*).

exceeding [1][7 13/16 per cent.] per annum as the [2][State] Government may notify in this behalf in the *Official Gazette*, from time to time.]

(*4*) All sums due under an award made in favour of the bank under this section shall be recoverable as arrears of land revenue :

[3][Provided that any application for the recovery of such sums shall be made to the Collector and shall be accompanied by a certificate signed by the Court.]

No recovery of amount in excess of debts scaled down.

34. The amount of debts scaled down under section 31 or further scaled down under section 33 shall for the purposes of this Act be the amount due by the debtor in respect of the said debts and the portion of the debts in excess of this amount shall be extinguished.

Debts not to be scaled down in case of collusion.

35. If the Court making an award under section 32 is at any stage of the proceeding satisfied—

(*1*) that the debtor had in collusion with any creditor furnished in such proceeding incorrect information in respect of the debt due by him to such creditor with a view to defeat the lawful claims of any other creditor, the Court may refuse to scale down any of the debts of such debtor in the manner provided in section 31 and may make an award for the full amount of the debts due from such debtor ;

(*2*) that any claim by a creditor in such proceeding had been put forward in collusion between the debtor and such creditor with a view to defeat the lawful claims of any other creditor, the Court shall order that the debt due by the debtor to such creditor shall be extinguished and such debt shall not be recoverable.

Ex parte proceedings if any party does not appear.

36. (*1*) Notwithstanding that the person for the adjustment of whose debts an application has been made under section 4 or any of his creditors does not appear on the date fixed for the hearing of the application or on any date to which it may be adjourned, the Court shall proceed *ex parte* to hear the application, decide the preliminary issues and, if necessary, make the award, on the evidence available.

(*2*) When an application made under section 4 is heard and disposed of *ex parte* under sub-section (*1*), the decision on the preliminary issues or the award shall not, except for sufficient reasons, be re-opened merely on the ground that any of the parties thereto did not appear at the hearing.

Re-opening of award and re-adjustment of debts.

37. If, after an award is made under section 32, the Court finds on an application made to it by any party or otherwise, that the debtor has other property which was not disclosed to the Court when the award was made, or that any property included in the award did not belong to the debtor, the Court may, notwithstanding anything contained in this Act, reopen the award and readjust the debts in accordance with the provisions of this Act :

Provided that where the Court is satisfied that the non-disclosure of such property was in consequence of any fraud on the part of the debtor, the Court in revising the award shall not give the debtor the benefit of section 31.

Award to be registered · how executed.

38. [4][(*1*) Every award made under this Act [5][if it is in respect of debts charged on the properties of the debtor] shall, on payment of the court-fee payable under section 44, be registered in the manner provided in Chapter II-A.]

(*2*) The court-fee on the award shall be paid by the party ordered by the Court to bear the costs :

Provided that any creditor who is not ordered to bear the costs may pay such court-fee. Such creditor shall be entitled to recover the amount of court-fee paid by him from the debtor with the first instalment payable to him under the award :

Provided further that no court-fee shall be payable by a co-operative society.

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[1] These figures and words were substituted for the words " six per cent." by Bom. 22 of 1953, s. 2.
[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[3] These words were added, by Bom. 70 of 1948, s. 10 (*4*).
[4] This sub-section was substituted for the original *ibid.* s. 11 (*1*).
[5] These words were inserted by Bom. 37 of 1950, s. 7.

(*3*) The award [1]* * shall be executed as follows :—

(*i*) If the debtor makes default in the payment of any instalment due under the award to any creditor such creditor may apply in the prescribed form to the Court for execution of the award.

(*ii*) If the Court on receipt of such application is satisfied that the debtor has made default in the payment of the instalment the Court shall transfer the award for execution to the Collector and thereupon the Collector shall recover the amount of the instalment from the debtor as arrears of land revenue :

Provided that nothing in [2][clauses (*i*) and (*ii*)] shall affect the right of Government, a local authority or a co-operative society to have recourse to any mode of recovery allowable by any law for the time being in force.

[3][(*iii*) If the Court has passed an order for the delivery of possession of any property under clause (*v*) of sub-section (*2*) of section 32 such order shall on the application be executed by the Court as if it were a decree passed by it.]

Postponement of payment of instalment in case of remissions, etc.

39. (*1*) Whenever from any cause the payment of one-half or more of the land revenue payable to the [4][State] Government is suspended or remitted the payment of the whole of the instalment due for that year and the full amount of the instalment due for each subsequent year under an award made under section 8, 9, 32 or 33 shall be postponed for one year.

(*2*) Whenever from any cause the payment of any portion less than one-half of the land revenue payable to the [4][State] Government is suspended or remitted one-half of the amount of the instalment for that year and the full amount of the instalment due for each subsequent year under an award made under section 8, 9, 32 or 33 shall be postponed for one year.

No alienation by debtor before discharge of debts valid.

40. Notwithstanding any law or contract but subject to the provisions of [5][sections 41 and 53], no alienation of any property belonging to a debtor who is a party to any proceedings [6][under this Act or an award registered under this Act], made by him before all his debts are discharged shall be valid, except with the previous sanction of the [7][Court].

Court may order sale of debtor's property in liquidation of his debt.

41. If the Court or the Court hearing an appeal against the award is at any time satisfied that it is in the interest of a debtor that any part of his property should be sold in liquidation of his debt or part thereof, such Court may permit the debtor to sell such part of the property for such purpose within a specified period. If the debtor fails so to sell it, such Court may order an officer of the Court to sell the same. The property ordered to be sold under this section shall be sold by such officer in the manner prescribed :

Provided that the part of the property ordered to be sold under this section shall not exceed the part liable to be sold under sub-section (*2*) of section 47.

Pleaders, etc. excluded from appearance.

42. Except in proceedings under [8][sections 24 and 28 and sub-section (*3*) of section 38] no pleader shall be entitled to appear on behalf of any party in any proceeding before the Court or the Court in appeal under this Act :

[9][Provided that the Court or the Court in appeal in the interest of justice for reasons to be recorded in writing may allow the parties to be represented at their own cost by a pleader :]

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[1] The words "so registered" were deleted by Bom. 37 of 1950, s 7.
[2] These words, brackets and figures were substituted for "this sub-section" by Bom. 70 of 1948, s. 11 (*2*).
[3] This clause was added, *ibid.*
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] This portion was substituted for the word and figures "section 41" by Bom. 70 of 1948, s. 12 (*1*).
[6] This portion was substituted for the words "or award under this Act" by Bom. 37 of 1950, s. 5.
[7] This word was substituted for the words "Provincial Government", by Bom. 70 of 1948, s. 12 (*2*).
[8] These words, figures and brackets were substituted for the words and figures "sections 24 and 28" by Bom. 19 of 1952, s. 2.
[9] This proviso was substituted for the original by Bom. 70 of 1948, s. 13 (*1*).

Provided further that pleader's fees shall not be allowed as part of the costs for the appearance of a pleader in any proceeding under this Act.

[1][Provided also that if any officer of Government is appointed or declared by a competent court or is authorised, under any law for the time being in force as a guardian, administrator or manager of the property of a person who is under a legal disability or is incompetent or unable to manage or to act, such officer shall be entitled to appear through a representative authorised by him in writing in this behalf in any proceedings before the Court or the Court in appeal. Such representative may also submit any application and otherwise act on behalf of the officer in any such proceedings.]

Appeals.

43. Notwithstanding anything contained in any other law [2]* * * (*1*) an appeal shall lie—

(*i*) from every order passed under sub-section (*3*) of section 8;

(*ii*) from every order passed under section 17;

(*iii*) from every order passed under section 24;

(*iv*) from every order passed under section 28;

(*v*) from every order passed under sub-section (*2*) of section 36;

(*vi*) from every award made under this Act other than an award made in terms of a settlement under sub-section (*4*) of section 8 or under section 9 or an award made under section 33 before the making of which the creditors' agreement has been obtained under sub-section (*1*) thereof or an award before the making of which neither the debtor nor any of the creditors produced evidence to enable the Court to determine the amount of debt due from the debtor;

[3][(*vii*) from an order made [4][under sub-section (*1*) or (*1A*) of section 47, adjudicating the debtor an insolvent,] provided that no appeal shall lie from such order except on the ground that the insolvent has failed to disclose all the material facts relating to his assets and liabilities;]

[5][(*2*) an appeal from the Court shall lie to the District Court, and the appeal shall be made within sixty days from the date of the coming into force of the Bombay Agricultural Debtors Relief (Amendment) Act, 1948, or from the date of the order or award, as the case may be, whichever is later. In computing the period of sixty days the provisions contained in sections 4, 5 and 12 of the Indian Limitation Act, 1908, shall, so far as may be, apply;] Bom. LXX of 1948, IX of 1908.

(*3*) no second appeal shall lie against any decision, order or award of the court under this Act.

Power of District Judge to refer for disposal certain appeals to Assistant Judge or Civil Judge empowered to hear appeals.

[6][**43A.** A District Judge may refer for disposal any appeal filed under the last preceding section to an Assistant Judge, or a Civil Judge invested with power to hear appeals under section 27 of the Bombay Civil Courts Act, 1869.] XIV of 1869.

Court-fees.

44. (*1*) Notwithstanding anything contained in the Court-fees Act, 1870, court-fees payable in respect of proceedings under this Act shall be at the following rates:— VII of 1870.

(*i*) on an application under sub-section (*1*) of section 4 or of section 8 or on an award under sub-section (*4*) of section 8 or section 9—Re. 1;

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[1] This proviso was added by Bom. 70 of 1948, s. 13 (*2*)

[2] The words and figures " and save as otherwise provided in section 51 " were deleted, *ibid*, s. 14 (*1*).

[3] This sub-clause was added, *ibid*, s. 14 (*2*).

[4] This portion was substituted for the words and figures " under section 47 " by Bom. 41 of 1951, s. 2.

[5] This clause was substituted for the original by Bom. 70 of 1948, s. 14 (*3*).

[6] This section was inserted, *ibid*, s. 15.

(*ii*) on an award other than an award specified in clause (*i*)—Re. 1 for every hundred rupees, or part thereof, of the amount of the award, subject to a maximum of Rs. 50;

(*iii*) on an appeal against a decision of the Court under sub-section (*3*) of section 8 or sub-section (*2*) of section 17—Rs. 2;

(*iv*) on an appeal other than an appeal specified in clause (*iii*)—Re. 1 for every hundred rupees, or part thereof, of [1][the amount involved] subject to a maximum of Rs. 50.

(*2*) Notwithstanding anything contained in any law, the court-fees payable in respect of proceedings under this Act shall be a first charge on the property of the party ordered to pay the costs and shall be recoverable in such manner as may be prescribed.

Notice how served.

45. Any notice required to be served under this Act shall be served in the manner provided in the Code of Civil Procedure, 1908; and when rules are made in that behalf in such manner as may be prescribed.

V of 1908.

Provisions of Civil Procedure Code to apply to proceedings.

46. Save as otherwise expressly provided in this Act, the provisions of the Code of Civil Procedure, 1908, shall apply to all proceedings under this Chapter:

V of 1908.

[2][Provided that the Court may in a proper case and on such terms as may appear to it to be just, exercise its powers to add or strike out parties under rule 10 of Order I of the said Code in any proceeding pending before it under section 4 or 24, notwithstanding the fact that such addition, or striking out of parties is to be made after the date specified in section 4 or 24, as the case may be, has elapsed.]

[3][CHAPTER IIA.

REGISTRATION OF AWARDS.

Debt Adjustment Register and Index.

46A. In all registration offices a book called "Register of Debt Adjustment Awards" and an Index relating thereto shall be kept. The book and index shall be kept in such form and shall contain such particulars as the [4][State] Government may prescribe.

Court to send awards and memorandums to Registrars and Sub-Registrars.

46B. [5][Where an award is required to be registered under section 38, it shall be the duty of the Court making the award to send to the sub-Registrar of the sub-district in which the property which is the subject matter of the award or any part of such property is situated, or if there is no Sub-Registrar for the area to the Registrar of the District in which the property or its part is situate a certified copy of the award after court-fee has been paid thereon in accordance with the provisions of section 44 together with a memorandum containing such particulars as the [4][State] Government may prescribe.

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[1] These words were substituted for the words "the amount of the award" by Bom. 70 of 1948, s. 16.
[2] This proviso was added by Bom. 37 of 1950, s. 9.
[3] Chapter IIA was inserted by Bom. 70 of 1948, s. 17.
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] This portion was substituted for the portion "It shall be the duty of the Court making an award" by Bom. 37 of 1950, s. 10.

Notice of appeals to Registrars.

[1][46C. If a party files an ap n award under section 43 and if such award has been registered under shall be the duty of the Court in which the appeal is filed to send to the or the Registrar to whom a certified copy of the award has been section 46B, a notice regarding the institution of the appeal.]

Registration.

46D. After the expiry of the period provided for an appeal against an award, if no appeal is filed, or if an appeal is filed after the disposal of the said appeal, the Sub-Registrar or the Registrar, as the case may be, shall register the award in the Register of Debt Adjustment Awards and shall also enter particulars in the Index kept under section 46A.

Registration of awards under repealed Act.

46E. All awards made under the repealed Act whether registered before the 27th day of May 1947 under the provisions of the said Act or not shall be registered under this Chapter :

Provided that notwithstanding anything contained in section 44 no additional court-fee shall be paid on such awards under the said section.

Notice of awards.

46F. Any person acquiring any property or any part of, or any share or interest in, the property of a debtor for adjustment of whose debts an award has been made [2][and registered] shall be deemed to have notice of the award as from the date the registration under this Chapter.

Application of Indian Registration Act.

46G. Except as herein provided, the provisions of the Indian Registration Act, 1908, shall *mutatis mutandis* apply to the registration of awards, and the words and expressions used in this Chapter but not defined in this Act shall have the meanings assigned to them in the Indian Registration Act, 1908.] XVI of 1908. XVI of 1908.

CHAPTER III.

INSOLVENCY PROCEEDINGS.

Court to declare debtor insolvent in certain circumstances.

47. (*1*) If at any stage of the proceedings under Chapter II the Court finds that the income of the debtor and his moveable property are not sufficient to allow his debts to be liquidated by annual instalments not exceeding twelve in number, the Court shall make an order adjudicating the debtor an insolvent.

[3][(*1A*) If at any time after the expiration of two years from the date of an award, the debtor satisfies the Court that there is no reasonable probability of his being in a position to pay the remaining amount of instalments fixed under the award, the Court may, notwithstanding anything contained in this Act, after giving notice to the creditor modify the terms of the award and reduce the amount of the instalment as it may think fit, provided that the total annual instalments in which the balance of the debts shall be paid in such instalments shall not exceed twenty or the Court may make an order adjudicating the debtor an insolvent.]

(*2*) After the debtor has been adjudicated an insolvent, the Court shall direct that such portion of the property of the debtor, liable to attachment and sale under section 60 of the Code of Civil Procedure, 1908, excluding such portion thereof as V of 1908.

[1] Section 46C was substituted for the original by Bom. 37 of 1950, s 11.
[2] These words were inserted, *ibid.*, s. 12.
[3] This sub-section was inserted by Bom. 41 of 1951, s. 3.

the [1][State] Government shall from time to time notify in the *Official Gazette* as the minimum necessary for the maintenance of the debtor and his dependents, as may be required to liquidate all the debts of the debtor, shall immediately be sold free of all incumbrances in liquidation of all debts outstanding against such debtor.

Procedure in insolvency proceedings.

48. The order of adjudication made [2][under sub-section (*1*) or (*1*A) of section 47] shall have the force of an order made by a competent court in the exercise of its powers under section 27 of the Provincial Insolvency Act, 1920.

V of 1920.

Distribution of assets of insolvent.

49. The proceeds realised by the sale of the property of the insolvent under section 47 shall be distributed in the order of priority specified in clause (*iii*) of sub-section (*2*) of section 32.

Bar to application in insolvency in other courts.

50. No application or proceeding in regard to the insolvency of a debtor shall lie in or shall be dealt with by any other Court.

Appeals barred.

[3][**51.** Save as provided by sub-clause (*vii*) of clause (*1*) of section 43, no appeal shall lie from any order passed under this Chapter.]

CHAPTER IV.

MISCELLANEOUS.

Bar of civil suits or proceedings.

[4][**51A.** Except as otherwise provided by this Act and notwithstanding anything contained in any other law, no Civil Court shall entertain or proceed with any suit or proceeding in respect of—

(*i*) any matter pending before the Court under this Act, or

(*ii*) the validity of any procedure or the legality of any award, order or decision of the Board established under section 4 of the repealed Act or of the Court, or

(*iii*) the recovery of any debt made payable under such award.]

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words, brackets and figures were substituted for the words and figures "under section 47" by Bom. 41 of 1951, s. 4.
[3] This section was substituted for the original by Bom. 70 of 1948, s. 18.
[4] This section was inserted, *ibid*, s. 19.

Period of proceeding before Courts under this Act to be excluded.

52. In computing the period of limitation for the institution of any suit or proceeding in respect of any debt due from any person who is held not to be a debtor by the Court or the Court in appeal [1][or an application relating to which has been dismissed by the Court or the Court in appeal, the period during which the proceedings in respect of such debt were prosecuted before the Court or the Court in appeal shall be excluded.]

Alienation of standing crops, etc., before repayment of loan prohibited.

53. (*1*) No person, who is [2][or was] a party to any proceedings or award under this Act and who is indebted to a resource society or any person authorised to advance loans under section 78 of the repealed Act or section 54 of this Act on account of any loan advanced to him for the financing of crops under the repealed Act or seasonal finance under this Act, shall hypothecate or sell the standing crops or the produce of his land without the previous permission of the society or of the person, as the case may be, until such loan has been repaid in full.

(*2*) Any person who hypothecates or sells the standing crop or the produce of his land in contravention of sub-section (*1*), shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500.

(*3*) No criminal Court shall take cognizance of any offence under this section except on the complaint in writing of the Court before which the proceedings were held or which made the award.

Power of [3][State] Government to authorise any person to advance loans to debtors.

54. (*1*) The [3][State] Government [4][or any officer empowered by it] may by notification in the *Official Gazette* authorise in any local area any person to advance loans to debtors who are parties to any proceedings under this Act or in respect of whose debts an adjustment has been made under this Act.

(*2*) Such authority shall be granted on such conditions as may be prescribed.

Rules.

55. (*1*) The [3][State] Government may by notification in the *Official Gazette* and subject to the condition of previous publication from time to time, make rules for carrying into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(*a*) the purposes for which loans may be advanced under clause (*13*) of section 2 ;

(*b*) the form of application under sub-section (*2*) of section 4 and the manner of signing, verification and presentation thereof ;

(*c*) the form of application and the manner of signing and verification thereof under sub-section (*2*) and the manner of giving notice under sub-section (*3*) of section 8 ;

(*d*) the manner of giving notice and publication of general notice and the form of statement to be submitted under section 14 ;

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[1] This portion was substituted for the words " the period during which the proceedings were pending before the Court in respect of such debt shall be excluded " by Bom. 70 of 1948, s. 20.
[2] These words were inserted, *ibid.*, s. 21.
[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[4] These words were inserted by Bom. 70 of 1948, s. 22.

(*e*) the inventories of property, lists of creditors and of debtors and of debts due to and from a debtor, the examination in respect of property or creditors, the time at which the debtors shall attend before the Court and do other things in relation to property under sub-section (*1*) of section 16, and the production of books of account, the examination to be submitted to, and the information to be supplied by a creditor in respect of the debt due to him by the debtor under sub-section (*2*) of section 16 ;

(*f*) the manner of determining the value of property and other assets under sub-section (*1*), and the manner of calculating the market value of the lands under sub-section (*4*), of section 29 ;

(*g*) the form of award under sub-section (*2*) of section 32 and sub-section (*2*) of section 33 ;

(*h*) the form of application under clause (*i*) of sub-section (*3*) of section 38 ;

(*i*) the manner in which property may be sold under section 41 ;

(*j*) the manner of recovery of Court-fees under sub-section (*2*) of section 44 ;

(*k*) the manner of service of notice under section 45 ;

[1][(*ka*) the form of and the particulars to be included in the Register of Debt Adjustment Awards and the Index kept under section 46A ;

(*kb*) the particulars to be included in the memorandum under section 46B ;]

(*l*) the conditions on which authority to grant loans shall be granted under sub-section (*2*) of section 54.

Repeal of Act XVII of 1879 and Bom. XXVIII of 1939.

56. (*1*) [2][Notwithstanding the repeal of the Dekkhan Agriculturists' Relief Act, 1879, by the Bombay Agricultural Debtors Relief Act, 1939, the first mentioned Act shall, in so far as it applies to transactions and proceedings to which this Act does not apply, be deemed to have been re-enacted with effect from the date of the coming into operation of this Act (hereinafter in this section referred to as the said date) and shall continue in force for a period of three years from the said date : XVII of 1879. Bom. XXVIII of 1939.

Provided that any proceeding in or out of any suit instituted before the expiry of the said three years shall be continued and disposed of after the expiry of the said period, as if the Dekkhan Agriculturists' Relief Act, 1879, had continued in force after the expiry of the said period :] XVII of 1879.

[3][Provided also that] nothing in this sub-section shall be deemed to affect, in regard to persons who are debtors and in respect of whose debts an application under section 4 of this Act can be made, anything done in the course of any proceeding pending in any Court on the said date and any such proceeding may be continued, in so far as the continuance is not inconsistent with the provisions of this Act :

Provided further that nothing in this sub-section shall in any way affect the transfer under section 19 of this Act of any suit or proceeding to which such debtor was a party.

(*2*) The Bombay Agricultural Debtors Relief Act. 1939, is repealed. Bom. XXVIII of 1939.

All Boards established under section 4 of the repealed Act shall be dissolved :

[1] Clauses (*ka*) and (*kb*) were inserted by Bom. 70 of 1948, s. 23.
[2] This portion was substituted for the original, *ibid.*, s. 24 (*1*) (*a*).
[3] These words were substituted for the words "Provided that", *ibid.*, s. 24 (*1*) (*b*).

[1][Provided that—

(*a*) all proceedings pending before any such Board at the date when this Act comes into force shall be continued and disposed of by the Court under this Act as if an application under section 4 had been made to the Court in respect therefor;

(*b*) all awards made, confirmed or modified under the repealed Act shall be deemed to have been made, confirmed or modified under this Act as if this Act was in force at the date when the said awards were made, confirmed or modified, as the case may be;

(*c*) all appeals pending before any Court under the repealed Act against the decision, order or award of such Board shall be continued and disposed of as if the said appeals were filed under the provisions of this Act; and

(*d*) all appeals which could have been filed under the repealed Act against any decision, order or award of such Board but which could not be filed only by reason of the fact that the said Act was repealed by this Act shall when filed before a competent court be deemed to have been filed under the provisions of this Act and shall be disposed of accordingly.]

Bom. IV of 1950.

[2][57. (*1*) Notwithstanding anything contained in section 4 of this Act as amended by the provisions of the Bombay Merged States (Laws) Act, 1950, in its application to the merged territories—

[4][Special provision for application under section 4 in respect of debts due to creditor in merged territory.]

(*a*) if any debtor was owing debts to a creditor in a merged territory on the date on which such territory merged with the [3][State] of Bombay and if the place in which such debtor was ordinarily residing on the said date was outside such territory, such debtor, or

(*b*) his creditor

may make an application to the Court under section 4 within six months from the date of the coming into operation of the Bombay Agricultural Debtors Relief (Amendment) Act, 1950.

Bom. XXXVII of 1950.

(*2*) Nothing in sub-section (*1*) shall entitle any debtor or creditor to make an application if prior to the date of the coming into operation of the said Bombay Agricultural Debtors Relief (Amendment) Act, 1950, he could have made an application under section 4 of this Act:

Bom. XXXVII of 1950.

Provided that, if the debtor had in such territory on the date on which such territory merged with the [3][State] of Bombay any property against which the creditor could have enforced his remedy for the recovery of the debts due to him from such debtor under any law in force in such territory immediately before the said date, such debtor or his creditor shall be entitled to make an application under sub-section (*1*).

Bom. IV of 1950.

58. Notwithstanding anything contained in section 24 of this Act as amended by the Bombay Merged States (Laws) Act, 1950, in its application to the merged territories, an agricultural labourer entitled to apply under section 24 for a declaration that a transfer of any land situate in any of the merged territories is a mortgage, may make an application under the said section within six months from the date of the coming into operation of the Bombay Agricultural Debtors Relief (Amendment) Act, 1950, to the Court of the Civil Judge (Senior Division) having ordinary jurisdiction in the area in which such land is situate, and if there is no such Civil Judge to the Court of the Civil Judge (Junior Division) having jurisdiction in the said area.]

Bom. XXXVII of 1950.

Special provision for application under section 24 in respect of land situate in merged territories.

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[1] This proviso was substituted for the original by Bom. 70 of 1948, s. 24 (*2*).
[2] Sections 57 and 58 were added by Bom. 37 of 1950, s. 13.
[3] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[4] This marginal note was substituted for the original by Bom. 18 of 1953, s. 3 and Second Schedule.

THE BOMBAY MONEY-LENDERS ACT, 1946.

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BOMBAY ACT No. XXXI OF 1947.[1]

[THE BOMBAY MONEY-LENDERS ACT, 1946.]

[*31st May 1947*]

Amended by Bom. 58 of 1948.
" " " 53 of 1949.
" " " 57 of 1949.
Adapted and modified by the Adaptation of Laws ~~Act~~ Order, 1950.
Amended by Bom. 13 of 1951.
" " " 7 of 1955.

An Act to regulate the transactions of money-lending in the Province of Bombay.

WHEREAS it is expendient to make better provision for the regulation and control of transactions of money-lending in the Province of Bombay ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Money-lenders Act, 1946.

(*2*) It extends to the whole of the [2][State] of Bombay.

(*3*) It shall come into force on such date as the [3][State] Government may by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

In this Act, unless there is anything repugnant in the subject or context,—

[4][(*1*) "bank" means a banking company as defined in the Banking Companies Act, 1949 ;]

X of 1949.

(*2*) "business of money-lending" means the business of advancing loans whether or not in connection with or in addition to any other business ;

(*3*) "capital" means a sum of money which a money-lender invests in the business of money-lending.

VII of 1913.

(*4*) "company" means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament [5][of the United Kingdom] or by Royal Charter or Letters Patent, or by an Act of the Legislature of a British Possession ;

Bom. VII of 1925. II of 1912.

(*5*) "co-operative society" means a society registered or deemed to have been registered under the Bombay Co-operative Societies Act, 1925, or the Co-operative Societies Act, 1912, or any Act of any other [3][State] Legislature relating to Co-operative societies ;

(*6*) "interest" includes any sum, by whatsoever name called, in excess of the principal paid or payable to a money-lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged by a money-lender for or on account of costs, charges or expenses in accordance with the provisions of this Act, or any other law for the time being in force ;

(*7*) "licence" means a licence granted under this Act ;

(*8*) "licence fee" means the fee payable in respect of a licence ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Pt. V, page 97 ; for Report of the Select Committee, *see ibid.*, p. 239 ; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

[2] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word " Provincial ", *ibid.*

[4] This clause was substituted for the original by Bom. 13 of 1951, s. 2 (*1*).

[5] These words were inserted by the Adaptation of Laws Order, 1950.

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(*9*) " loan " means an advance at interest [1]* * * whether of money or in kind, but does not include—

(*a*) a deposit of money or other property in a Government Post Office Bank or in any other bank or in a company or with a co-operative society ;

(*b*) a loan to, or by, or a deposit with any society or association registered under the Societies Registration Act, 1860, or any other enactment relating to a public, religious or charitable object ; XXI of 1860.

(*c*) a loan advanced by Government or by any local authority authorised by Government ;

(*d*) a loan advanced by a co-operative society ;

[2][(*d1*) an advance made to a subscriber to, or a depositor in, a Provident Fund from the amount standing to his credit in the fund in accordance with the rules of the fund ;

(*d2*) a loan to or by an insurance company as defined in the Insurance Act, 1938 ;] VI of 1938.

(*e*) a loan to, or by [3] * bank ;

(*f*) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note ; XXVI of 1881.

[4][(*g*) except for the purposes of sections 23 and 25, —

(*i*) a loan to a trader ;

(*ii*) a loan to a money-lender who holds a valid licence ; or

(*iii*) a loan, by a landlord to his tenant for financing of crops or seasonal finance, of not more than Rs. 50 per acre of land held by the tenant.

Explanation.—The expression " tenant " shall have the meaning assigned to it in the Bombay Tenancy and Agricultural Lands Act, 1948, and the expressions " financing of crops " and " seasonal finance " shall have the meanings assigned to them in the Bombay Agricultural Debtors Relief Act, 1947 ;] Bom. LXVIII of 1948. Bom. XXVII of 1947.

(*10*) " money-lender " means—

(*i*) an individual, or

(*ii*) an undivided Hindu family ; or

[5]* * * *

[6][(*iiia*) a company, or]

(*iv*) an unincorporated body of individuals,

who or which—

(*a*) carries on the business of money-lending in the [7][State] ; or

(*b*) has his or its principal place of such business in the [7][State] ;

(*11*) " prescribed " means prescribed by rules made under this Act ;

(*12*) " principal " means in relation to a loan the amount actually advanced to the debtor ;

[8][(*12A*) " Provident Fund " means a Provident Fund as defined in the Provident Funds Act, 1925, and includes a Government Provident Fund and a Railway Provident Fund as defined in the said Act] ; XIX of 1925.

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[1] The words " by way of credit " were deleted by Bom. 13 of 1951, s. 2 (*2*) (*a*).
[2] These sub-clauses were inserted by Bom. 58 of 1948, s. 2 (*i*).
[3] The word " scheduled " was deleted by Bom. 13 of 1951, s. 2 (*2*) (*b*).
[4] This sub-clause was substituted for the original, *ibid.*, s. 2 (*2*) (*c*).
[5] Paragraph (*iii*) was deleted, *ibid.*, s. 2 (*3*).
[6] This paragraph was inserted, by Bom. 58 of 1948, s. 2 (*ii*).
[7] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.
[8] This clause was inserted by Bom. 58 of 1948, s. 2 (*iii*).

(*13*) " [1][State] " means the [1][State] of Bombay ;

(*13A*) " recognised language " means in Greater Bombay Marathi or Gujarati and elsewhere the language of the Court ;

(*14*) " register " means a register of money-lenders maintained under section 4 ;

(*15*) " rules " means rules made under this Act ;

[2]* * * * * *

(*17*) " suit to which this Act applies " means any suit or proceeding—

(*a*) for the recovery of a loan made after the date on which this Act comes into force ;

(*b*) for the enforcement of any security taken, or any agreement, made after the date on which this Act comes into force in respect of any loan made either before or after the said date ; or

(*c*) for the redemption of any security given after the date on which this Act comes into force in respect of any loan made either before or after the said date;

(*18*) " trader " means a person who in the regular course of business buys and sells goods or other property, whether moveable or immovable, and includes—

a wholesale or retail merchant,
a commission agent,
a broker,
a manufacturer,
a contractor,
a factory owner,

but does not include an artisan or a person who sells his agricultural produce or cattle or buys agricultural produce or cattle for his use.

Explanation.—For the purposes of this clause an " artisan " means a person who does not employ more than ten workers in a manufacturing process on any one day of the twelve months immediately preceding.

Appointment of Registrar General, Registrars and Assistant Registrars.

3. The [3][State] Government may, by notification in the *Official Gazette*, appoint such persons, whether public officers or not, as it thinks proper, to be a Registrar General, Registrars and Assistant Registrars of money-lenders for the purposes of this Act and may define the areas within which each such officer shall exercise his powers and perform his duties.

Register of money-lenders.

4. Every Assistant Registrar shall maintain for the area in his jurisdiction a register of money-lenders in such form as may be prescribed.

Money-lender not to carry on business of money-lending except for area under licence and except in accordance with terms of licence.

5. No money-lender shall carry on the business of money-lending except in the area for which he has been granted a licence and except in accordance with the terms and conditions of such licence.

[1] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.
[2] Clause (16) was deleted by Bom. 13 of 1951, s. 2 (*4*).
[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Application for licence.

6. (*1*) Every money-lender shall annually before such date as may be prescribed make an application in the prescribed form for the grant of a licence to the Assistant Registrar of the area [1][within the limits of which, the place where he intends to carry on the business of money-lending or if he intends to carry on such business at more than one place in the area, the principal place of such business is situated]. Such application shall contain the following particulars, namely :—

(*a*) the name in which such money-lender intends to carry on business and the name of the person proposed to be responsible for the management of the business ;

(*b*) if the application is by or on behalf of—

(*i*) an individual, the name and address of such individual,

(*ii*) an undivided Hindu family, the names and addresses of the manager and the adult coparceners of such family ;

(*iii*) [2][a company], the names and addresses of the directors, manager or principal officer managing it,

(*iv*) an unincorporated body of individuals, the names and addresses of such individuals ;

(*c*) the area and the place or principal place of the business of money-lending in the [3][State] ;

(*d*) the name of any other place in the [3][State] where the business of money-lending is carried on or intended to be carried on ;

(*e*) whether the person signing the application has himself, or any of the adult coparceners of an undivided Hindu family, or any director, manager or principal officer of the [4][[5]* * company] or any member of the unincorporated body on behalf of which such application has been made, as the case may be, has carried on the business of money-lending in the [3][State] in the year ending on the 31st day of March immediately preceding the date of the application either individually, or in partnership, or jointly with any other coparcener or any other person and whether in the same or any other name ;

(*f*) the total amount of the capital which such person intends to invest in the business of money-lending in the year for which the application has been made ;

[6][(*g*) if the places at which the business of money-lending is to be carried on are more than one, the names of persons who shall be in the management of the business at each such place.]

(*2*) The application shall be in writing and shall be signed—

(*a*) (*i*) if the application is made by an individual, by the individual ;

(*ii*) if the application is made on behalf of an undivided Hindu family, by the manager [7]* * * of such family ;

(*iii*) if the application is made by a [8][[9]* company] or unincorporated body, by the managing director or any other person having control of its principal place of business in [10][the territory of India except Part B States] or of its place of business in the area in which it intends to carry on the business ; or

(*b*) by an agent authorised in this behalf by a power of attorney by the individual money-lender himself, or the family, or the [8][[9]* company] or the unincorporated body, as the case may be.

(*3*) The application shall also contain such other particulars as may be prescribed.

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[1] This portion was substituted for "within the limits of which he intends to carry on the business of money-lending" by Bom. 58 of 1948, s. 3(*i*).

[2] These words were substituted for the words "a bank or Company" by Bom. 13 of 1951 s. 3(*1*) (*a*).

[3] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[4] These words were substituted for the original, by Bom. 58 of 1948, s. 3 (*1*) (*b*) and (*c*).

[5] The words "bank or" were deleted by Bom. 13 of 1951, s. 3 (*1*) (*b*).

[6] New clause (*g*) was inserted by Bom. 58 of 1948, s. 3 (*i*) (*a*).

[7] The words "and the adult coparceners" were deleted, *ibid*, s. 3 (*ii*) (*a*).

[8] These words were substituted for the word "bank" *ibid*, s. 3 (*ii*) (*b*).

[9] The word "bank" was deleted by Bom. 13 of 1951, s. 3 (*2*).

[10] These words and letter were substituted for the words "British India" by the Adaptation of Laws Order, 1950.

[1][(4) The application shall be accompanied by a licence fee at the following rates :—

(a) If the place at which the business of money-lending is to be carried on is not more than one.	Rs. 5.
(b) If the business of money-lending is to be carried on at more than one place within the limits of the area of the Registrar.	Rs. 5 for the licence for the principal place of business and Rs. 2 for the licence for each of the other places in the area.:

Provided that where an application is made after the expiry of the period prescribed by rules in respect of such application, it shall be accompanied by a licence fee at double the rates specified above.

(5) The fee payable under this section shall be paid in the manner prescribed and shall not be refunded, notwithstanding the fact that the grant of the licence is refused or the application is withdrawn.]

Grant of licence and entry in register.

[2][7. (1)] On the receipt of an application under section 6 and after making a summary inquiry in accordance with the prescribed procedure, the Assistant Registrar shall forward the application, together with his report, to the Registrar. The Registrar may after making such further inquiry, if any, as he deems fit, grant the applicant a licence in such form and subject to such conditions as may be prescribed, [3][* *] and direct the Assistant Registrar to enter the name of such applicant in the register maintained by him under section 4.

[4][If the application is in respect of more than one place of business in the area under the jurisdiction of the Registrar, a separate licence in respect of each such place shall be granted in the name of the applicant and the person responsible for the management of the business at such place.]

[4][(2) If the application also contains a request for the grant of a licence to carry on the business of money-lending at any place within the Province, but at a place outside the jurisdiction of the Registrar who granted the licence in respect of the principal place of business of the money-lender, the Registrar shall forward copies of the application and of the licence granted to the Registrar having jurisdiction who may grant a licence on payment of the licence fee provided for in section 6 without making any inquiry in respect of the application.]

Refusal of issue of licence.

8. (1) The grant of a licence shall not be refused except on any of the following grounds :—

(a) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender is disqualified from holding a licence ;

(b) that the applicant has not complied with the provisions of this Act or the rules in respect of an application for the grant of a licence ;

(c) that the applicant has made wilful default in complying with or knowingly acted in contravention of any requirement of this Act ;

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[1] New sub-sections (4) and (5) were added by Bom. 58 of 1948, s. 3 (*iii*).

[2] Section 7 was renumbered as 7 (1), *ibid.*, s. 4 (1).

[3] The words " on payment in the prescribed manner of a licence fee of Rs. 5" were deleted, *ibid.*, s. 4 (1).

[4] This portion and sub-section (2) were added, *ibid.*

(*d*) that satisfactory evidence has been produced that the applicant or any person responsible or proposed to be responsible for the management of his business of money-lending has—

(*i*) knowingly participated in or connived at any fraud or dishonesty in the conduct of or in connection with the business of money-lending, or

(*ii*) been found guilty of an offence under Chapter XVII or sections 465, 477 or 477-A of Chapter XVIII of the Indian Penal Code. XLV of 1860.

(*2*) The Registrar shall, before refusing a licence under sub-section (*1*), record the evidence adduced before him and his reasons for such refusal.

(*3*) An appeal shall lie from an order of the Registrar refusing a licence under sub-section (*1*) to the Registrar General, whose decision shall be final.

Registrar's power to cancel licences.

[1][**8A.** (*1*) The Registrar, may during the term of any licence, cancel the same by an order in writing on the ground that the person to whom it was granted has been guilty of any act or conduct for which he might under section 8 have refused him the grant of the licence and which act or conduct was not brought to his notice at the time of the grant.

(*2*) Before cancelling a licence under sub-section (*1*) the Registrar shall give notice in writing to the licensee and may hold such inquiry as may be necessary.

(*3*) An appeal shall lie from an order of the Registrar cancelling a licence under sub-section (*1*) to the Registrar General whose decision shall be final.]

Term of licence.

9. A licence shall be valid from the date on which it is granted to the 31st day of July following.

Stay of suits by money-lenders not holding licence.

10. (*1*) After the expiry of six months from the date on which this Act comes into force, no Court shall pass a decree in favour of a money-lender in any suit filed by a money-lender to which this Act applies unless the Court is satisfied that at the time when the loan or any part thereof to which the suit relates was advanced, the money-lender held a valid licence.

(*2*) If during the trial of any such suit, the Court finds that the money-lender had not held such licence, the Court may, on the application of the money-lender, stay the hearing of the suit and require him to produce within a period of three months a licence on payment to the Registrar of all the arrears of the licence fees payable by him under this Act for the period commencing from the date on which he started the business of money-lending or the expiry of six months from the date on which this Act comes into force, whichever is later, together with such penalty, not exceeding Rs. 500, as the Court may direct:

Provided that when the Court is satisfied that the failure of the money-lender to obtain a licence was due to any reasonable cause, the Court may direct that no penalty as aforesaid or part of such penalty shall be paid by the money-lender.

(*3*) The Court may, on sufficient cause being shown, from time to time extend the period during which the money-lender shall be required to produce a licence.

(*4*) If the money-lender fails to produce the licence required under sub-section (*2*) within the period specified therein or within such period as may be extended under sub-section (*3*), the Court shall dismiss the suit. If the money-lender produces such licence within the aforesaid period, the Court shall proceed to hear the suit.

(*5*) Nothing in this section shall affect—

(*a*) suits in respect of loans advanced by a money-lender before the date on which this Act comes into force;

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[1] New section 8A was inserted by Bom. 58 of 1948, s. 5.

Bom. XXI of 1881. Bom. VI of 1888. III of 1909. V of 1920. VII of 1913.

(*b*) the powers of a Court of Wards, or a manager of an estate taken under management under the Broach and Kaira Incumbered Estates Act, 1881, or the Gujarat Talukdars Act, 1888, or an Official Assignee, a receiver, an administrator or a Court under the provisions of the Presidency-towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, or of a liquidator under the Indian Companies Act, 1913, to realise the property of a money-lender.

Entry in register and grant of licence to a money-lender directed to obtain licence under section 10.

11. Any money-lender who is required under sub-section (*2*) of section 10 to produce a licence shall make an application to the Registrar through the Assistant Registrar in the manner specified in section 6 and on receipt of such application the Registrar may, subject to the provisions of section 8, and after making such inquiry as he deems fit, grant the money-lender on payment of the arrears of licence fee, and the penalty, if any, directed by the Court to be paid, a licence in the form and subject to the conditions specified in section 7 and direct the Assistant Registrar to enter the name of the money-lender in the register.

Application for cancellation of licence.

12. (*1*) Any person may, during the currency of a licence, file an application, to the Registrar General for the cancellation of the licence issued to a money-lender on the ground that such money-lender has been guilty of any act or conduct for which the Registrar may under section 8 refuse him the grant of a licence. At the time of filing his application the said person shall deposit such amount not exceeding Rs. 100 as the Registrar General may deem fit.

(*2*) On the receipt of such application and deposit the Registrar General shall hold an inquiry and if he is satisfied that the money-lender has been guilty of such act or conduct he may direct the Registrar to cancel the licence of the money-lender and may also direct the return of the deposit made under sub-section (*1*).

(*3*) If in the opinion of the Registrar General, an application made under sub-section (*1*) is frivolous or vexatious, he may, out of the deposit made under sub-section (*1*), direct to be paid to the money-lender such amount as he deems fit as compensation.

Registrar General, Registrar and Assistant Registrar to have powers of Civil Court.

13. For the purposes of section 7 the Registrar and Assistant Registrar, and for the purposes of section 12 the Registrar General, shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters :— V of 1908.

(*a*) enforcing the attendance of any person and examining him on oath ;
(*b*) compelling the production of documents and material objects ;
(*c*) issuing commissions for the examination of witnesses ; and
(*d*) proof of facts by affidavits.

Power of authorised officer to require production of record or documents.

[1][**13A.** For the purpose of verifying whether the business of money-lending is carried on in accordance with the provisions of this Act any Registrar, Assistant Registrar or any other officer authorised by the [2][State] Government in this behalf may require any money-lender [3][or any person in respect of whom the Registrar, Assistant Registrar or the officer so authorised has reason to believe that he is carrying on the business of money-lending in the State] to produce any record

[1] New section 13A was inserted by Bom. 58 of 1948, s. 6.
[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[3] These words were inserted by Bom. 7 of 1955, s. 2 (*a*).

or document in his possession which in his opinion is relevant for the purpose and thereupon such money-lender [1][or person] shall produce such record or document. The Registrar, Assistant Registrar or officer so authorised may after reasonable notice at any reasonable time enter any premises where he believes such record or document to be and may ask any question necessary for interpreting or verifying such record.]

Court's power to cancel or suspend a licence.

14. (*1*) (*i*) A Court passing an order of conviction against a money-lender for an offence under this Act, or

(*ii*) a Court trying a suit to which this Act applies, if satisfied that such money-lender has committed such contravention of the provisions of this Act or the rules as would, in its opinion, make him unfit to carry on the business of money-lending—

(*a*) may order that all the licences held by such money-lender in the [2][State] be cancelled or suspended for such time as it may think fit, and

(*b*) may, if it thinks fit, declare any such money-lender, or if any money-lender is an undivided Hindu family, a [3][[4]*company] or an unincorporated body such family, [3][[4]*company] or body and also any person responsible for the management of the business of money-lending carried on by such family, [3][[4]*company] or body, to be disqualified from holding any licence in the [2][State] for such time as the Court may think fit.

(*2*) Where a Court convicts a money-lender of an offence under this Act, or makes an order or declaration under clause (*a*) or (*b*) of sub-section (*1*), it shall cause the particulars of the conviction, order or declaration, as the case may be, to be endorsed on all the licences held by the money-lender convicted or by any other person affected by the order or declaration and shall cause copies of its order or declaration to be sent to the Registrars by whom the licences were granted for the purpose of entering such particulars in the registers :

Provided that where any licence held by any money-lender is suspended or cancelled or any money-lender is disqualified from holding any licence under this section he may appeal against such order to the Court to which an appeal ordinarily lies from the decision of the Court passing the order ; and the Court which passed the order or the Court of appeal may, if it thinks fit, pending the appeal, stay the operation of the order under this section.

(*3*) Any licence required by a Court for endorsement in accordance with sub-section (*2*) shall be produced by the person by whom it is held in such manner and within such time as may be directed by the Court and any person who, without reasonable cause, makes default in producing the licence so required shall be liable, on conviction, to a fine not exceeding Rs. 500 for each day for the period during which the default continues.

(*4*) Powers conferred on a Court under this section may be exercised by any Court in appeal or in revision.

No compensation for suspension or cancellation of licence

15. Where any licence is suspended or cancelled under this Act, no person shall be entitled to any compensation or the refund of any licence fee.

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[1] These words were inserted by Bom. 7 of 1955, s. 2(*b*).
[2] This word was substituted for the word "province" by the Adaptation of Laws Order, 1950.
[3] These words were substituted for the word "bank" by Bom. 58 of 1948, s. 7.
[4] The word "bank" was deleted by Bom. 13 of 1951, s. 4.

Persons debarred from doing business during period of suspension or cancellation of licence.

16. A person whose licence has been suspended or cancelled in accordance with the provisions of this Act shall, during the period of suspension or cancellation, as the case may be, be disqualified from holding any licence in the [1][State].

Person whose licence is suspended or cancelled not to apply without giving particulars of endorsement or of disqualification.

17. No person whose licence has been endorsed under section 14 or who has been disqualified from holding a licence shall apply for, or be eligible to hold, a licence, without giving particulars of such endorsement or disqualification.

Duty of money-lender to keep accounts, and furnish copies.

18. (*1*) Every money-lender shall keep and maintain a cash book and a ledger in such form and in such manner as may be prescribed.

(*2*) Every money-lender shall—

(*a*) deliver or cause to be delivered—

(*i*) to the debtor within 30 days from the date on which a loan is made, a statement in any recognised language showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the debtor and of the money-lender and the rate of interest charged :

[2][Provided that no such statement shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass book which shall be in the prescribed form and shall contain an uptodate account of the transactions with the debtor] ;

(*ii*) to the Assistant Registrar, within the said period [3][a statement containing the particulars referred to in clause (*a*) (*i*)] ;

(*b*) upon repayment of a loan in full, mark indelibly every paper signed by the debtor with words indicating payment or cancellation, and discharge every mortgage, restore every pledge, return every note and cancel or reassign every assignment given by the debtor as security for the loan.

[4][*2A*) Notwithstanding anything contained (*a*) (*ii*) of sub-section (*2*), the State Government may by order in writing permit such class of money-lenders as may be specified in the order to deliver or cause to be delivered to the Assistant Registrar a statement containing the particulars referred to in clause (*a*) (*i*) of sub-section (*2*) in respect of all loans made during every such period as may be specified in the order. And upon the issue of such order a money-lender electing to

[1] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[2] This proviso was added by Bom. 57 of 1949, s. 2 (*a*).
[3] These words, brackets, letter and figure were substituted for the words "a copy of the said statement", *ibid*, s. 2. (*b*).
[4] This sub-section was inserted by Bom. 13 of 1951, s. 5.

deliver a periodical statement as provided in this sub-section shall deliver or cause to be delivered the same within a period of 30 days from the date of expiry of every such period.]

(*3*) No money-lender shall receive any payment from a debtor on account of any loan without giving him a plain and complete receipt for the payment.

(*4*) No money-lender shall accept from a debtor any article as a pawn, pledge or security for a loan without giving him a plain signed receipt for the same with its description, estimated value, the amount of loan advanced against it and such other particulars as may be prescribed

Delivery of statement of accounts and copies thereof by money-lender.

19. (*1*) Every money-lender shall deliver or cause to be delivered every year to each of his debtors a legible statement of such debtor's accounts signed by the money-lender or his agent of any amount that may be outstanding against such debtor. The statement shall show—

(*i*) the amount of principal and the amount of interest, separately, due to the money-lender;

(*ii*) the amount of every payment already received by the money-lender in respect of the loan during the year together with the date on which each payment was made;

(*iii*) all payments credited first in the account of interest, and the residue, if any, of any payment more than sufficient to discharge the balance of interest due at the time it is made, credited to the debtor in the account of principal [1][or in the alternative such of the payments credited first in the account of principal as the money-lender may determine and the remaining payments credited in the account of interest calculated on the basis of the decreased balance of principal and when the balance of interest is fully discharged the residue of the payments, if any, further credited in the account of principal];

(*iv*) the amount of [2][principal and interest remaining unpaid]

The statement shall be signed by the money-lender, or his agent, and shall be in any recognised language. It shall be in such form and shall be supplied to the debtor on or before such date as may be prescribed : [3][Provided that no such statement shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass book which shall be in the prescribed form and shall contain an uptodate account of the transactions with the debtor.]

The money-lender shall on or before the aforesaid date deliver or cause to be delivered [4][a statement containing the particulars specified in clauses (*i*) to (*iv*)] to the Assistant Registrar.

(*2*) In respect of any particular loan, whether advanced before or after the date on which this Act comes into force, the money-lender shall, on demand in writing being made by the debtor at any time during the period when the loan or any part thereof has not been repaid, and on payment of the prescribed fee supply to the debtor, or if the debtor so requires to any person specified in that behalf in the demand, a statement, in any recognised language, signed by the money-lender or his agent, and containing the relevant particulars specified in sub-section (*1*).

(*3*) A money-lender shall, on a demand in writing by the debtor, and tender of the prescribed sum of expenses, supply a copy of any document relating to a loan made by him or any security therefor to the debtor, or if the debtor so requires to any person specified in that behalf in the demand.

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[1] These words were inserted by Bom. 13 of 1951, s. 6 (*1*).

[2] These words were sabitituted for the words "principal remaining unpaid and the interest thereon", *ibid* s. 6 (*2*).

[3] This proviso was added by Bom. 57 of 1949, s. 3 (*a*).

[4] These words, brackets and figures were substituted for the words "a copy of each such statement", *ibid*, s. 3 (*b*).

(*4*) For the purposes of this section "year" means the year for which the accounts of the money-lender are ordinarily maintained in his own books..

[1][**19A.** (*1*) A money-lender may recover from a debtor fees for the statements [2][or a pass book] supplied to him under sub-section (*2*) of section 18 or sub-section (*1*) of section 19 and in respect of copies of such statements supplied to the Assistant Registrar under the said sub-sections [3][or in respect of copies of statements supplied to him under sub-section (*2A*) of section 18]. Fees for certain statements supplied to debtors and Assistant Registrars.

(*2*) Such fees shall be recoverable at such rates and in such manner as may be prescribed, subject to the maximum of two rupees per debtor, per year, irrespective of the number of statements or copies thereof supplied to the debtor or the Assistant Registrar during the relevant year.]

20. A debtor to whom a statement of accounts [4][or a pass book] has been furnished under section 19 shall not be bound to acknowledge or deny its correctness and his failure to do so shall not, by itself, be deemed to be an admission of the correctness of the accounts. Debtor not bound to admit correctness of accounts.

21. Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies— Procedure of Court in suits regarding loans.

(*a*) a Court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has complied with the provisions of sections 18 and 19;

(*b*) if the Court finds that the provisions of section 18 or section 19 have not been complied with by the money-lender, it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs.

Explanation.—A money-lender who has given the receipt or furnished a statement of accounts [5][or a pass book] in the prescribed form and manner, shall be held to have complied with the provisions of section 18 or section 19, as the case may be, in spite of any errors and omissions, if the Court finds that such errors and omissions are not material or not made fraudulently.

22. Nothing in sections 18 to 21 shall apply to loans advanced by any [6][[7]* company] or unincorporated body which the [8][State] Government may by notification in the *Official Gazette* exempt from the operation of those sections. Provisions of certain sections not to apply to loans made by [6][[7]* company] or unincorporated body exempted by Government.

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[1] Section 19A was inserted by Bom. 58 of 1948, s. 8.
[2] These words were inserted by Bom. 13 of 1951, s. 7 (*1*).
[3] These words, brackets, figures and letter were added. *ibid*, s. 7 (*2*).
[4] These words were inserted, *ibid*, s. 8.
[5] These words were inserted, *ibid*, s. 9.
[6] These words were substituted for the word "bank", by Bom. 58 of 1948, s. 8.
[7] The word "bank" was deleted by Bom. 13 of 1951, s. 10.
[8] This word was substituted for the word "Provincial" by the Adaptation of laws Order, 1950.
[9] This word was inserted by Bom. 58 of 1948, s. 8.

Power of Court to limit interest recoverable in certain cases.

23. Notwithstanding anything contained in any agreement or any law for the time being in force, no Court shall in respect of any loan whether advanced before or after the date on which this Act comes into force, decree, on account of interest, a sum greater than the principal of the loan due on the date of the decree.

Power of Court to direct payment of decretal amount by instalments.

24. Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Court may, at any time, on application of a judgment-debtor, after notice to the decree-holder, direct that the amount of any decree passed against him, whether before or after the date on which this Act comes into force, in respect of a loan, shall be paid in such number of instalments and subject to such conditions, and payable on such dates, as, having regard to the circumstances of the judgment-debtor and the amount of the decree, it considers fit. V of 1908

Limitation on rates of interest.

25. (*1*) The [1][State] Government may from time to time by notification in the *Official Gazette* fix the maximum rates of interest for any local area or class of business of money-lending in respect of secured and unsecured loans :

[2]* * * * * *

(*2*) Notwithstanding anything contained in any law for the time being in force, no agreement between a money-lender and a debtor for payment of interest at rates exceeding the maximum rates fixed by the [1][State] Government under sub-section (*1*) shall be valid and no Court shall in any suit to which this Act applies award interest exceeding the said rates.

[3][(*3*) If any money-lender charges or receives from a debtor interest at a rate exceeding the maximum rate fixed by the [1][State] Government under sub-section (*1*), he shall, for the purposes of section 34, be deemed to have contravened the provisions of this Act.]

Prohibition of charge for expenses on loans by money-lenders.

26. No money-lender shall receive from a debtor or intending debtor any sum other than reasonable costs of investigating title to the property, costs of stamp, registration of documents and other usual out-of-pocket expenses in cases where an agreement between the parties includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed to such costs and reimbursement thereof; or where such costs, charges or expenses are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force. IV of 1882.

Notice and information to be given on assignment of loan.

27. (*1*) Where a loan advanced, whether before or after the date on which this Act comes into force, or any interest of such loan or the benefit of any agreement made or security taken in respect of such loan or interest is assigned to any assignee, the assignor (whether he is the money-lender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made—

(*a*) give the assignee notice in writing that the loan, interest, agreement or security is affected by the operation of this Act ;

(*b*) supply to the assignee all information necessary to enable him to comply with the provisions of this Act ; and

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This proviso was deleted by Bom. 13 of 1951, s. 11.
[3] Sub-section (*3*) was added by Bom. 57 of 1949, s. 4.

(*c*) give the debtor notice in writing of the assignment supplying the name and address of the assignee.

(*2*) Any person acting in contravention of the provisions of sub-section (*1*) shall be liable to indemnify any other person who is prejudiced by the contravention.

Application of Act as respects assignees.

28. (*1*) Save as hereinafter provided, where any debt due to a money-lender in respect of money lent by him whether before or after the date on which this Act comes into force or of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, has been assigned, the assignee shall be deemed to be the money-lender and all the provisions of this Act shall apply to such assignee as if he were the money-lender.

(*2*) Notwithstanding anything contained in this Act or in any other law for the time being in force, where for any reason any such assignment is invalid and the debtor has made any payment of money or transfer of property on account of any loan which has been so assigned, the assignee shall in respect of such payment or transfer be deemed to be the agent of the money-lender for all the purposes of this Act.

Reopening of transactions.

29. Notwithstanding anything contained in any law for the time being in force, the Court shall, in any suit to which this Act applies, whether heard *ex parte* or otherwise—

(*a*) reopen any transaction, or any account already taken between the parties ;

(*b*) take an account between the parties ;

(*c*) reduce the amount charged to the debtor in respect of any excessive interest ;

(*d*) if on taking accounts it is found that the money-lender has received more than what is due to him pass a decree in favour of the debtor in respect of such amount :

Provided that in the exercise of these powers, the Court shall not—

(*i*) reopen any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom they claim at a date more than six years from the date of the suit ;

(*ii*) do anything which affects any decree of a Court.

Explanation.—For the purpose of this section " excessive interest " means interest at a rate which contravenes any of the provisions of section 25.

Inquiry for taking accounts and declaring the amount due.

30. (*1*) Any debtor may make an application at any time to the Court, whether the loan to which the suit relates has or has not become payable, for taking accounts and for declaring the amount due to the money-lender. Such application shall be in the prescribed form and accompanied by the prescribed fee.

(*2*) On receipt of such application, the Court shall cause a notice of the application to be given to the money-lender.

(*3*) On the date fixed for the hearing of the application or on such date to which the hearing may be adjourned from time to time, the Court shall make an inquiry and shall after taking an account of the transactions between the parties pass an order declaring the amount, if any, still payable by the debtor to the

money-lender, in respect of the principal and interest, if any. In taking accounts under this section the Court shall follow the provisions of sections 18 to 29 [1][and section 31A].

Deposit in Court of money due to money-lender

31. (*1*) At any time a debtor may tender to a money-lender any sum of money due from him to the money-lender in respect of a loan by way of principal, interest or both.

(*2*) If the money-lender refuses to accept any sum so tendered, the debtor may deposit the said sum in Court to the account of the money-lender.

(*3*) The Court shall thereupon cause written notice of the deposit to be served on the money-lender, and he may, on presenting a petition stating the sum then due in respect of the loan, and his willingness to accept the said sum, receive and appropriate it first towards the interest and the residue if any towards the principal.

(*4*) When the money-lender does not accept the sum, the Court shall appropriate the said sum first towards the interest and the residue if any towards the principal.

When interest to be paid for entire month.

[2][**31A.** Notwithstanding any agreement between the parties or any law for the time being in force, when a statement is delivered or pass book is supplied to a debtor under section 19 or if accounts are taken under section 30 or a tender is made by a debtor to a money-lender in respect of a loan under section 31 before the sixteenth day of a calendar month, the interest due shall be calculated as payable for fifteen days of the said month, and if the statement is delivered or pass book is supplied or accounts are taken or tender is made on any subsequent day, then for the entire calendar month irrespective of the fact that such statement is delivered or pass book is supplied or such accounts are taken or such tender is made on any such day.]

Entry of wrong sum in bond, etc. to be an offence.

32 (*1*) No money-lender shall take any promissory note, acknowledgment, bond or other writing which does not state the actual amount of the loan, or which states such amount wrongly or execute any instrument in which blanks are left to be filled after execution.

(*2*) Whoever contravenes the provisions of sub-section (*1*) shall, on conviction be punishable with fine which may extend to Rs. 1,000 or with imprisonment of either description which may extend to six months or with both.

Penalty for molestation.

33. (*1*) Whoever molests, or abets the molestation, of a debtor for the recovery of a debt due by him to a creditor shall, on conviction, be punishable with imprisonment of either description which may extend to three months or with fine which may extend to Rs. 500 or with both.

Explanation.—For the purposes of the section a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing—

(*a*) obstructs or uses violence to or intimidates such other person, or

(*b*) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

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[1] These words, figures and letter were inserted by Bom. 57 of 1949. s. 5.

[2] Section 31A was inserted, *ibid*, s. 6.

(*c*) loiters near a house or other place where such other person resides or works, or carries on business, or happens to be, or does any act calculated to annoy or intimidate such other person,

shall be deemed to molest such other person :

Provided that a person who goes to such house or place in order merely to obtain or communicate information shall not be deemed to molest.

[1]* * * * * * * *

34. Whoever fails to comply with or acts in contravention of any provision of this Act, shall, if no specific penalty has been provided for in this Act, be punishable— General provision regarding penalties.

[2][(*a*) for the first offence with simple imprisonment which may extend to two months or with fine which may extend to Rs. 500 or with both, and

(*b*) for the second or subsequent offence with imprisonment of either description which may extend to six months or with fine or with both.]

35. If the person contravening any of the provisions of this Act is an undivided Hindu family [3]* * [4][or a company] or an unincorporated body, the person responsible for the management of the business of such family, [5][6]* company] or body shall be deemed to be guilty of such contravention. Offences by corporations, etc.

V of 1898. [7][**35A.** Notwithstanding anything contained in the Code of Criminal Procedure, 1898, offences punishable— Certain offences to be cognizable.

(*a*) under section 34 for contravening the provisions of section 5, and

(*b*) under section 33,

shall be cognizable.]

36. Notwithstanding any law for the time being in force, no debtor who cultivates land personally and whose debts do not exceed Rs. 15,000 shall be arrested or imprisoned in execution of a decree for money passed in favour of a money-lender, whether before or after the date on which this Act comes into force. Arrest and imprisonment in execution of decree for money, against agricultural debtors, abolished.

Explanation.—"To cultivate personally" has the meaning assigned to it in clause (*11*) of section 2 of the Bombay Tenancy Act, 1939.*

Bom. XXIX of 1939.

37. Every officer of the [8][Government] acting under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Every officer to be public servant.

XLV of 1860.

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[1] Sub-section (*2*) was deleted by Bom. 7 of 1955, s. 3.
[2] Clauses (*a*) and (*b*) were substituted for the original clauses (*a*) to (*c*) by Bom. 57 of 1949, s. 7.
[3] The words " or a bank " were deleted by Bom. 13 of 1951, s. 12.
[4] These words were inserted by Bom. 58 of 1948, s. 10.
[5] These words were substituted for the word " bank ", *ibid.*
[6] The word " bank " was deleted by Bom. 13 of 1951, s. 12.
[7] This section was inserted by Bom. 7 of 1955, s. 4.
[8] This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.
* *See* now section 2 (*6*) of Bom. 67 of 1948.

Provisions of Bom. [1]XXVIII of 1947] saved.

38. Nothing in this Act shall affect any of the provisions of the Bombay Agricultural Debtors Relief Act, [2][1947], and no Court shall entertain or proceed under this Act with any suit or proceeding relating to any loan in respect of which debt adjustment proceedings can be taken under the said Act. Bom. XXVIII of 1947.

Power of State Government to delegate its powers.

[3][**38A.** The State Government may delegate to any officer any of the powers conferred on it by or under this Act.]

Rules.

39. (*1*) The [4][State] Government may make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters :—

(*a*) the form of the register under section 4 ;

[5][(*b*) the form of the application for a licence, the further particulars to be included therein and the manner of payment of licence fee under section 6 ;]

(*c*) the form and conditions of the licence, the manner of payment of licence fee and the procedure for a summary inquiry under section 7 ;

(*d*) the form of cashbook and ledger and the manner in which they should be maintained under sub-section (*1*), and the other particulars to be prescribed under sub-section (*4*), of section 18 ;

(*e*) the form of the statement of accounts [6][and pass books] to be furnished [6][or delivered] and the date before which it is to be furnished [6][or delivered] under sub-section (*1*), the fee to be paid under sub-section (*2*), and the sum of expenses to be paid under sub-section (*3*), of section 19 ;

[7][(*ee*) the rates at which and the manner in which fees may be recovered under section 19A ;]

(*f*) the form of application and the fee to be paid under sub-section (*1*) of section 30 ;

(*g*) any other matter which is or may be prescribed under this Act or any matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the [4][State] Government, necessary for giving effect to the provisions of this Act.

(*3*) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette*.

(*4*) The rules made under this section shall be laid before each [8][House] of the [4][State] Legislature at the session thereof next following and shall be liable to be modified or rescinded by a resolution in which both [8][Houses] concur and such rule shall, after notification in the *Official Gazette*, be deemed to have been modified or rescinded accordingly.

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[1] These figures and word were substituted for the figures and word " XXVIII of 1939 " by Bom. 53 of 1949, s. 3, Second Schedule.

[2] These figures were substituted for the figures " 1939 " *ibid.*

[3] This section was inserted by Bom. 13 of 1951, s. 13.

[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[5] This clause was substituted for the original by Bom. 58 of 1948, s. 11 (*i*).

[6] These words were inserted by Bom. 57 of 1949, s. 8.

[7] This clause was inserted by Bom. 58 of 1948, s. 11 (*i*).

[8] The words " House " and " Houses " were substituted for the words " Chamber " and " Chambers " respectively by the Adaptation of Laws Order, 1950.

THE LORD REAY MAHARASHTRA INDUSTRIAL MUSEUM ACT, 1947.

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BOMBAY ACT No. XXXII OF 1947.[1]

[THE LORD REAY MAHARASHTRA INDUSTRIAL MUSEUM ACT, 1947.]

[*5th June 1947*]

Amended by Bom. 59 of 1949.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 39 of 1951.
,, ,, ,, 18 of 1953.

An Act to provide for the management and maintenance of the Lord Reay Maharashtra Industrial Museum at Poona.

WHEREAS it is expedient to provide by law for the management and maintenance of the Lord Reay Maharashtra Industrial Museum at Poona and for certain other purposes hereinafter appearing; It is hereby enacted as follows :—

Preliminary.

Short title.

1. This Act may be called the Lord Reay Maharashtra Industrial Museum Act, 1947

Definitions.

2. (*1*) "The Lord Reay Maharashtra Industrial Museum" referred to in this Act as "the Museum" means the institution known at the date of the passing of this Act by the name of the Lord Reay Industrial Museum.

(*2*) "prescribed" means prescribed by rules made under this Act.

Objects and Membership.

Aims and objects.

3. The aims and objects of the Museum shall be—

(*1*) to serve as an educative institution for the general public with a view to illustrating various branches of science and in particular their application to industry, agriculture and commerce;

(*2*) to show by means of exhibits, machines, models, pictures and charts the origin, development and modern practice of each branch of science and its application to industry, agriculture and commerce;

(*3*) to maintain a technical library including cinematographic films, lantern slides and photographs;

(*4*) to arrange, hold and undertake lectures, demonstrations and tours with a view to promoting interest in industrial development;

(*5*) to organise and help in organising industrial exhibitions;

(*6*) to organise and help in organising a commercial emporium;

(*7*) to popularise the products of industries and handicrafts of the [2][State] of Bombay in particular and of India in general;

(*8*) to undertake and do all such works and things as may be necessary for or conducive to, the attainment of any of the aforesaid aims and objects.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Part V, Page 11; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. X.

[2] This word was substituted for the word "Province" by Adaptation of Laws Order, 1950.

Members.

4. (*1*) Members of the Museum shall consist of the following classes :—

(*i*) Patrons, that is to say, those who pay or have already paid Rs. 5,000 or more (in a lump sum) ;

(*ii*) Life members, that is to say, those who pay or have already paid Rs. 500 or more (in a lump sum) ;

(*iii*) Donors, that is to say, those who pay or have already paid Rs. 300 or more (in a lump sum) ;

(*iv*) Ordinary members, that is to say, those who pay Rs. 10 annually.

(*2*) No person shall be debarred from becoming a member of the Museum by reason of his religion, caste, creed or sex.

Meeting of general body of members.

5. A meeting of the general body of members shall be called by the Board every year at such time and place as may be prescribed.

Board of Trustees.

Constitution of Board.

6. (*1*) There shall be constituted for the maintenance and management of the Museum and for the other purposes of this Act a permanent Board of Trustees (in this Act referred to as "the Board"). It shall be a body corporate by the name of "the Trustees of the Lord Reay Maharashtra Industrial Museum, Poona", with perpetual succession and a common seal, shall sue and be sued in that name and shall have power to acquire and hold property, to let on hire, lease or mortgage any immovable property vesting in it, to enter into contracts and to do all other acts necessary for and consistent with the purposes of this Act.

(*2*) The Board shall consist of—

A. (*i*) the Commissioner, Central Division ;

(*ii*) to (*v*) any four of the following officials nominated by the Government of Bombay :—

(*a*) the District and Sessions Judge, Poona ;
(*b*) the Director of Industries or his nominee ;
(*c*) the Director of Agriculture, Poona ;
(*d*) the Chief Conservator of Forests, Poona ;
[1][(*e*) the Director of Education, Poona ;]
(*f*) the Superintending Engineer, Central Circle, Poona ,
(*g*) the Registrar of Co-operative Societies and Director of Rural Development, Poona.

[2][B. The following four ex-officio representatives of the Municipal Corporation of the City of Poona :—

(*i*) the Mayor, who shall be the Chairman
(*ii*) the Chairman, Standing Committee,
(*iii*) the Chairman, Municipal School Board,
(*iv*) the Municipal Commissioner for the City of Poona.]

C. Such number as may be prescribed of representatives of local bodies other than the [3][Municipal Corporation of the City of Poona] nominated by the local bodies on those bodies agreeing to make a contribution of such amount, each, as may be prescribed to the funds of the Museum.

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[1] Clause (*e*) was substituted for the original by Bom. 18 of 1953, s. 3 and Second Schedule.
[2] This paragraph was substituted for the original by Bom. 59 of 1949, s. 491, App. III.
[3] These words were substituted for the words "Poona City Borough Municipality," *ibid.*

D. Four representatives of the members of the Museum elected in the prescribed manner:

Provided that no ordinary member of the Museum shall be eligible to be elected a representative unless he has been such a member for not less than 3 years.

E. Two representatives of local commercial and industrial interests, one to be nominated by the Deccan Agricultural Association, Poona, and the other by the Mahratta Chamber of Commerce and Industries, Poona.

F. Two non-official representatives nominated by the Government of Bombay one from each of the following local institutes, namely:—

(1) The Ranade Economic Institute, Poona.
(2) The Gokhale School of Politics and Economics, Poona:

Provided that no representative referred to in clauses E and F of this sub-section shall be nominated until the institute concerned has paid to the funds of the Museum an affiliation fee of Rs. 300, or shall continue to be a member of the Board unless the institute pays to the said funds within the prescribed period an annual subscription of Rs. 100.

Term of office.

7. (*1*) Members of the Board other than ex-officio members shall, save as herein otherwise provided, hold office for a period of three years.

(*2*) If a member, other than an ex-officio member,—

(*a*) dies or becomes insolvent, or

(*b*) is absent from more than six consecutive meetings of the Board. or

(*c*) leaves the Province of Bombay with the intention of being absent therefrom for more than six consecutive months, or

(*d*) desires to be discharged, or

(*e*) refuses to act or becomes incapable of acting,

a new member shall be elected or nominated, as the case may be, in the same manner as was the member in whose place he is to be elected or nominated and he shall hold office for so long only as such member would have held it if the vacancy had not occurred

Quorum.

8. (*1*) The Commissioner, Central Division, and in his absence, the District and Sessions Judge, Poona, if he is a member of the Board and in the absence of both, the Chairman of the Board, shall preside at the meetings of the Board.

(*2*) The quorum necessary for the transaction of business at a meeting of the Board shall be five.

Acts of Board not invalid by reason of vacancy, etc.

9. No act of the Board shall be deemed to be invalid merely by reason of any vacancy in, or defect in the constitution of the Board.

Property vested in Board.

10. All property whether moveable or immovable which, at the commencement of this Act, was held on trust for the purposes of the Lord Reay Industrial Museum, together with any such property which may hereafter be given, bequeathed, transferred or acquired for the said purposes, including contributions, fees and subscriptions, and property accruing as a result of the exercise of any of the Board's powers, shall vest in the Board for the purposes of the Museum.

Power of Board to lend, exchange, sell or destroy articles in collections.

11. Subject to the provisions of any rules or by-laws made in this behalf the Board may, from time to time,—

(*a*) deliver by way of loan to any person the whole or any portion of, or any article contained in, any collection vested in it under this Act;

(*b*) exchange or sell articles contained in any such collection and take or purchase, in the place of such articles, such other articles as may in its opinion be worthy of preservation in the Museum:

(*c*) present articles contained in any such collection to other museums in India or elsewhere;

(*d*) remove and destroy any article contained in any such collection:

Provided that nothing herein contained shall authorize the Board to lend, exchange, sell, present, remove or destroy any article when such lending, exchange, sale, presentation, removal or destruction, as the case may be, is precluded by the terms on which the Board may have received any such article.

Further powers of Board

12. The Board may, if it thinks fit for the purposes of its trust under this Act—

(*1*) assume the custody and administration of collections which are not the property of the Board and keep and preserve such collections either in the Museum or elsewhere;

(*2*) subject to any rules made by the Provincial Government in this behalf, organise courses of industrial and technical instruction and afford facilities for the sale or exhibition of products of Indian industries and handicrafts.

Power of Board to borrow.

13. The Board may from time to time borrow or reborrow and take up at interest from the Central Government or the Government of Bombay or with the previous sanction of the Government of Bombay from any person, any sum necessary for the purpose of defraying any costs, charges or expenses incurred or to be incurred by them to carry out the purposes of this Act, or for the purpose of repaying either in whole or in part any sums hereafter borrowed or owing by the Board.

Power of Board to make by-laws.

14. (*1*) The Board may, from time to time, with the previous sanction of the Government of Bombay, make by-laws not inconsistent with the provisions of this Act or rules made thereunder for any purpose necessary for the execution of its trust.

(*2*) In particular and without prejudice to the generality of the foregoing powers such by-laws may provide for—

(*a*) the summoning, holding and adjournment of meetings of the Board and procedure at such meetings;

(*b*) the securing of the attendance of trustees at such meetings;

(*c*) the keeping of minutes book and account books;

(*d*) the limits up to which the Chairman and the Secretary may sanction expenditure under section 18;

(*e*) the compiling of catalogues and guide books and other publications;

(*f*) the lending of articles contained in the collections vested in the Board;

(*g*) the exchange, sale or presentation to other museums of duplicates of articles contained in such collections;

(*h*) the removal and destruction of articles contained in such collections; and

(*i*) the general management of the Museum.

Secretary and Staff.

Secretary and staff.

15. There shall be a Curator of the Museum who shall also be the Secretary to the Board. The Board shall determine the terms and conditions of his service and of such other staff as it may employ.

Officers and servants of Board to be public servants.

XLV of 1860.

16. All officers and servants employed by the Board shall be deemed to be public servants within the meaning of the Indian Penal Code:

Provided that this section shall not apply to persons in the service of any contractor employed by theBoard.

Miscellaneous.

Contribution by [1][Municipal Corporation of City of Poona].

Bom. LIX of 1949.

17. Notwithstanding anything contained in the [1][Bombay Provincial Municipal Corporations Act, 1949, the Municipal Corporation of the City of Poona] shall make an annual grant of not less than Rs. 7,500 to the funds of the Museum.

Expenditure.

18. (*1*) All expenditure shall be sanctioned by the Board. The Board may from time to time authorise the Chairman and the Secretary to sanction expenditure every month up to such limits as may be determined in its by-laws. All cases of sanction by the Chairman or the Secretary shall be duly placed before the subsequent meeting of the Board for ratification.

(*2*) Every order for the payment of money shall be authenticated by the signature of the Secretary and counter-signature of the Chairman.

Audit.

19. (*1*) There shall be an annual audit of the accounts of the Museum carried out by an auditor appointed in this behalf by the Accountant General, Bombay.

(*2*) The Secretary shall furnish to the auditor an annual statement of accounts supported by the necessary vouchers and generally assist the auditor in his work.

(*3*) The auditor's report shall be placed before the Board.

Inspection of Museum.

20. The [3][State] Government shall have the right to cause inspection to be made by such person or persons as it may appoint of the Museum and its buildings, library books, furniture and other equipment and, upon any recommendation made by such person or persons, to direct the Board to take such action as it may think fit.

Rules.

21. (*1*) The [3][State] Government may by notification in the *Official Gazette* make rules to carry out the purposes of this Act..

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters:—

(*a*) the time of the year and place at which a meeting of the general body of members shall be called under section 5;

(*b*) the number of representatives of local bodies other than the [4][Municipal Corporation of the City of Poona], the amount of contribution to be made by them under clause C, and the manner of election of representatives of members under clause D, of sub-section (*2*) of section 6; and the period within which the annual subscription shall be paid under the proviso thereto;

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[1] These words and figures were substituted for the words "Bombay Municipal Boroughs Act, 1925, the Poona City Borough Municipality", by Bom. 59 of 1949, s 491, Appendix III.

[2] These words were substituted for the words "Poona City Borough Municipality" by Bom. 39 of 1951, s. 3, Second Schedule.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] These words were substituted for the words "Poona City Borough Municipality" by Bom. 59 of 1949, s. 491, Appendix III.

(*c*) the appointment of committees of the Board and the powers which may be delegated to such committees ;

(*d*) the erection of Museum buildings, the transfer of the Museum to a new site, the maintenance and management of the Museum, the exercise of the Board's powers under section 11 and sub-section (*2*) of section 12, the care and custody of the objects deposited in the Museum and the conditions under which the public shall have access to the Museum ;

(*e*) the maintenance, management and disposal of any property vested in the Board and the investment and reinvestment in public securities or otherwise and the safe custody of the funds of the Museum ;

(*f*) the form of accounts to be kept by the Board and the publication of such accounts ;

(*g*) the application to the officers and servants employed by the Board of the rules which apply to the civil servants of the [1][Government] or to any class of such civil servants ;

(*h*) the payment of contributions at such rates and subject to such conditions as may from time to time be determined by the Board to any provident fund which may be established by the Board for the benefit of the officers and servants employed by it ;

(*i*) the management of the library and reading room.

Vacation of office by existing trustees.

22. From the date of the first meeting of the Board, the existing trustees of the Lord Reay Industrial Museum shall be discharged :

Provided that nothing contained in this section shall absolve any of the said trustees from any liability accruing before that date.

[1] This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

THE BOMBAY ADJUDICATION PROCEEDINGS (TRANSFER AND CONTINUANCE) ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Provincial Government's power to make order for transfer and continuance of adjudication proceedings before Tribunal.
3. Penalty.
4. Savings.
5. Repeal of Bombay Ordinance IV of 1947.

Bk H 957—67

BOMBAY ACT No. XXXIV OF 1947.[1]

[THE BOMBAY ADJUDICATION PROCEEDINGS (TRANSFER AND CONTINUANCE) ACT, 1947.]

[*22nd November 1947.*]

An Act to provide for the transfer and continuance of adjudication proceedings in trade disputes referred to an Adjudicator for adjudication under rule 81A of the Defence of India Rules and pending before such Adjudicator.

WHEREAS it is expedient to enable the Provincial Government to transfer to, and continue before, a Tribunal constituted by the Provincial Government under the Industrial Disputes Act, 1947, adjudication proceedings in trade disputes referred to an Adjudicator for adjudication under rule 81A of the Defence of India Rules and pending before such Adjudicator at the commencement of this Act; It is hereby enacted as follows:—

XIV of 1947.

Short title and extent.

1. (*1*) This Act may be called the Bombay Adjudication Proceedings (Transfer and Continuance) Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

Provincial Government's power to make order for transfer and continuance of adjudication proceedings before Tribunal.

2. The Provincial Government may, by order notified in the *Official Gazette*, direct that any proceedings in any trade dispute referred to an Adjudicator for adjudication under rule 81A of the Defence of India Rules and pending before such Adjudicator at the commencement of this Act shall, from the stage reached before the Adjudicator, be transferred to, and continued before, a Tribunal constituted by the Provincial Government under the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act), and thereupon such dispute shall be deemed to be an industrial dispute within the meaning of the said Act and all the provisions of the said Act shall apply in relation to such dispute as if it were referred to the Tribunal for adjudication under the said Act.

XIV of 1947.

Penalty.

3. For the avoidance of doubt it is hereby declared that any employer, workman or person, who commits an offence under section 26, 27, 28, 29, 30 or 31 of the said Act in relation to such dispute the proceedings in which have been transferred to, and continued before, a Tribunal under section 2, shall be liable to the punishment provided in any of the said sections.

Savings.

4. Nothing in this Act shall affect—

(*a*) any penalty, forfeiture or punishment incurred in respect of any contravention of the provisions of rule 81A ot the Defence of India Rules or of any order made thereunder in rleation to a trade dispute the proceedings in which have been transferred to, and continued before, a Tribunal under section 2; or

(*b*) any investigation, legal proceeding or remedy in respect of any penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been made.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 339.

Repeal of Bombay Ordinance IV of 1947.

5. The Bombay Adjudication Proceedings (Transfer and Continuance) Ordinance, 1947, is hereby repealed; and it is hereby declared that the provisions of section 7 of the Bombay General Clauses Act, 1904, shall apply to the repeal as if that Ordinance were an enactment.

Bom. Ordinance No. IV of 1947.

Bom. I of 1904.

The Bombay Harijan Temple Entry Act, 1947 (XXXV of 1947) at pages 2483–2486 has been repealed by the Untouchability Offences Act (XXII of 1955), section 30.

THE BOMBAY ESSENTIAL SUPPLIES (TEMPORARY POWERS) AND THE ESSENTIAL COMMODITIES AND CATTLE (CONTROL) (ENHANCEMENT OF PENALTIES) ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Enhanced penalties for contravention of orders under Act XXIV of 1946 and Bom. XXII of 1946.
3. Magistrate's power to impose enhanced penalties.
4. Repeal.

BOMBAY ACT No. XXXVI OF 1947.[1]

[THE BOMBAY ESSENTIAL SUPPLIES (TEMPORARY POWERS) AND THE ESSENTIAL COMMODITIES AND CATTLE (CONTROL) (ENHANCEMENT OF PENALTIES) ACT, 1947.]

[*25th November 1947.*]

An Act to provide for enhancement of penalties for contravention of orders under the Essential Supplies (Temporary Powers) Act, 1946, and the Bombay Essential Commodities and Cattle (Control) Act, 1946.

WHEREAS it is expedient to provide for the enhancement of penalties for contravention of orders made under the Essential Supplies (Temporary Powers) Act, 1946, and the Bombay Essential Commodities and Cattle (Control) Act, 1946; It is hereby enacted as follows:—

XXIV of 1946. Bom. XXII of 1946.

Short title and extent.

1. (*1*) This Act may be called the Bombay Essential Supplies (Temporary Powers) and the Essential Commodities and Cattle (Control) (Enhancement of Penalties) Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

XXIV of 1946. Bom. XXII of 1946.

Enhanced penalties for contravention of orders under Act XXIV of 1946 and Bom. XXII of 1946.

2. (*1*) Notwithstanding anything contained in the Essential Supplies (Temporary Powers) Act, 1946, whoever contravenes an order made or deemed to be made under section 3 of the said Act, and notwithstanding anything contained in the Bombay Essential Commodities and Cattle (Control) Act, 1946, whoever contravenes an order made or deemed to be made under section 4 of the said Act, shall be punished with imprisonment for a term which may extend to seven years but shall not, except for reasons to be recorded in writing, be less than six months and shall also be liable to fine.

(*2*) Any Court trying such contravention may direct that any property in respect of which the Court is satisfied that the order has been contravened shall be forfeited to the Provincial Government.

V of 1898.

Magistrate's power to impose enhanced penalties.

3. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the First Class specially empowered by the Provincial Government in this behalf and for any Presidency Magistrate to pass a sentence provided in section 2, for contravening any order made or deemed to be made under section 3 of the Essential Supplies (Temporary Powers) Act, 1946, or under section 4 of the Bombay Essential Commodities and Cattle (Control) Act, 1946, in excess of his powers under section 32 of the said Code.

XXIV of 1946. Bom. XXII of 1946.

Repeal.

4. The Bombay Essential Supplies (Temporary Powers) and the Essential Commodities and Cattle (Control) (Enhancement of Penalties) Ordinance, 1947, Bom. Ordinance No. III of 1947. is hereby repealed; and it is hereby declared that the provisions of section 7 of the Bombay General Clauses Act, 1904, Bom. I of 1904. shall apply to the repeal as if that Ordinance were an enactment.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Part V, page 277.

THE BOMBAY AGRICULTURAL PESTS AND DISEASES ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Definitions.
3. Power to declare insect pests, plant diseases and noxious weeds and direct measures to eradicate or prevent them.
4. Duties of occupier on the issue of a notification under section 3.
5. Power of Inspector to enter upon any land or premises.
6. Notice to occupier to carry out preventive or remedial measures.
7. Failure to comply with notice under section 6 and power of Inspector to carry out measures.
8. Compensation for destruction of trees or plants.
9. Compensation for trees or plants destroyed by occupier.
10. Procedure for claims for compensation.
11. Award of Assessor ; Appeal.
12. Duty of certain village officers to report appearance of insect pest, plant disease or noxious weed.

12A. Public to assist and to render service in carrying out preventive or remedial measures including destruction of locusts in case of locust menace.

12B. Power to requisition vehicles in case of locust menace.

12C. Appeal against orders passed under section 12B.

12D. Special powers of entry and inspection.

13. Penalty.

13A. Further penalties.

13B. Special procedure regarding trial of certain offences.

SECTIONS.

14. Appointment of Inspectors and Assessors.

15. Bar of suit or other legal proceedings.

16. Delegation of powers.

17. Rules.

18. Repeal of Bom. XIV of 1941.

BOMBAY ACT No. XLIII OF 1947.[1]

[THE BOMBAY AGRICULTURAL PESTS AND DISEASES ACT, 1947.]

[*10th December 1947*]

Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom 33 of 1951.
,, ,, ,, 10 of 1955.

An Act to repeal and re-enact the Bombay Agricultural Pests and Diseases Act, 1941, providing for the prevention of the introduction, spread, or re-appearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the Province of Bombay.

26 Geo. 5, Ch. 2. Bom. XIV of 1941.

WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is expedient to repeal and re-enact the Bombay Agricultural Pests and Diseases Act, 1941, providing for the prevention of the introduction, spread or re-appearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the Province of Bombay; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Bombay Agricultural Pests and Diseases Act, 1947.

(*2*) It extends to the whole of the [2][State] of Bombay.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context—

(*1*) "Assessor" means an assessor appointed under section 14;

(*2*) "Insect pest" means any pest declared to be an insect pest by notification under section 3;

(*3*) "Inspector" means an inspector appointed under section 14;

(*4*) "Notified Area" means any area specified in the notification issued under section 3 in which a declaration made under the said section shall remain in force;

(*5*) "Noxious weed" means any weed declared to be a noxious weed by notification under section 3;

(*6*) "Occupier" means the person having for the time being the right of occupation of any land or premises, or his authorized agent or any person in actual occupation of the land or premises;

(*7*) "Pest" means any insect or other invertebrate animal;

(*8*) "Plant" includes the fruit, leaves, bark, cuttings and any living portion of a plant but does not include the seed:

Provided that the [3][State] Government may by notification in the *Official Gazette* direct that the seed of any particular plant shall be included in the definition of plant;

(*9*) "Plant disease" means any fungoid, bacterial, parasitical or other disease declared to be a plant disease by notification under section 3;

(*10*) "Prescribed" means prescribed by rules made under section 17.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Part V, page 245; for Proceedings in Assembly *see* Bombay Legislative Assembly Debates, 1947, Vol. XI; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XIII.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Provincial". *Ibid.*

Power to declare insect pests, plant diseases and noxious weeds and direct measures to eradicate or prevent them.

3. Whenever it appears to the [1][State] Government that any pest, disease or weed is injurious to crops, plants or trees in any local area and that it is necessary to take measures to eradicate such pest,disease or weed, or to prevent its introduction, spread or re-appearance, the [1][State] Government may, by notification in the *Official Gazette*—

(*i*) declare that such pest, disease or weed is an insect pest, plant disease or noxious weed ;

(*ii*) specify the local area within which and the period during which such declaration shall remain in force ;

(*iii*) prohibit or restrict the removal of any plant or tree from one place to another ; and

(*iv*) direct the carrying out of such preventive or remedial measures including the destruction of any pest, disease or noxious weed or any crops, plants or trees, as the [1][State] Government may deem necessary, in order to eradicate such pest, disease or weed or to prevent its introduction, spread or re-appearance.

Duties of occupier on the issue of a notification under section 3.

4. On the issue of a notification under section 3, every occupier within the notified area shall carry out the preventive or remedial measures mentioned in such notification.

Power of Inspector to enter upon any land or premises.

5. Any Inspector may, after giving the prescribed notice, enter upon any land or premises situated in a notified area for the purpose of ascertaining—

(*i*) whether there is any insect pest, plant disease or noxious weed on such land or premises ; and

(*ii*) whether the preventive or remedial measures mentioned in the notification issued under section 3 have been carried out.

Notice to occupier to carry out preventive or remedial measures.

6. (*1*) If, on inspection of any land or premises under section 5, the Inspector finds that there is any insect pest, plant disease or noxious weed on such land or premises or that the preventive or remedial measures mentioned in the notification issued under section 3 have not been carried out, the Inspector may, subject to the general or special order of the [1][State] Government, call upon the occupier of such land or premises, by notice in writing, to carry out such preventive or remedial measures within the time specified in such notice.

(*2*) Within seven days from the date of the service upon him of the notice under sub-section (*1*) the occupier may prefer an appeal to the Collector or such other officer as the Collector may appoint in this behalf.

(*3*) On receipt of the appeal under sub-section (*2*) the Collector or other officer, as the case may be, may extend the time specified in the notice under sub-section (*1*) and shall, after giving the occupier an opportunity of being heard, pass such order on the appeal as he thinks fit.

(*4*) Every order passed under sub-section (*3*) shall be final.

Failure to comply with notice under section 6 and power of Inspector to carry out measures.

7. (*1*) If an occupier upon whom a notice has been served under sub-section (*1*) of section 6 does not comply with such notice within the time specified therein, or if an appeal has been preferred under sub-section (*2*) of section 6, does not comply with the order passed on such appeal, the Inspector may carry out the preventive or remedial measures mentioned in such notice or order.

[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

(*2*) The costs of any preventive or remedial measures carried out under sub-section (*1*) shall be payable by the occupier and shall be recoverable from him as an arrear of land revenue.

(*3*) Any such occupier may, within thirty days from the date of the first demand of such costs from him, prefer an appeal to the Collector or to such other officer as the Collector may appoint in this behalf on the ground that—

(*i*) the costs include charges for items other than the cost of labour, material or use of implements, or

(*ii*) the charges for labour or material or use of implements are unreasonably high.

(*4*) On receipt of the appeal under sub-section (*3*), the Collector or other officer, as the case may be, shall, after giving the occupier an opportunity of being heard, pass such order thereon as he thinks fit.

(*5*) Every order passed under sub-section (*4*) shall be final.

Compensation for destruction of trees or plants.

8. (*1*) If, in carrying out any preventive or remedial measures under sub-section (*1*) of section 7, the Inspector destroys or causes to be destroyed—

(*a*) any tree which is infected with an insect pest or a plant disease, or

(*b*) any plants some or all of which are infected with insect pest or plant disease and which are grown so closely together that it is not practicable to treat each plant individually, or

(*c*) any plants or trees, which though not infected at the time with an insect pest or a plant disease, are, in the opinion of the Inspector, liable to such infection,

the Inspector shall give notice to the occupier of the land or premises on which such trees or plants were grown stating particulars of the trees or plants destroyed and his estimate of their value.

(*2*) When any tree or plant is destroyed under sub-section (*1*), the occupier shall be entitled to compensation determined in the manner provided in section 11.

Compensation for trees or plants destroyed by occupier.

9. If an occupier in carrying out any preventive or remedial measures, directed to be carried out by the notification issued under section 3 or the notice given under sub-section (*1*) of section 6, destroys any tree or plant in accordance with such direction, he shall be entitled to such compensation as he would have been entitled to under section 8 if such tree or plant had been destroyed by the Inspector.

Procedure for claims for compensation.

10. Every claim for compensation shall be made in writing to the Assessor within one month from the date of—

(*i*) the notice given under sub-section (*1*) of section 8, if the claim is made under the said section, or

(*ii*) the destruction of the tree or plant, as the case may be, if the claim is made under section 9.

Award of Assessor; Appeal.

11. (*1*) On receipt of any claim under section 10, the Assessor shall, subject to the provisions of sub-section (*2*) and after making an enquiry in the prescribed manner and taking such evidence as he thinks fit, fix the amount of compensation due to the occupier under the provisions of this Act and make an award for such amount.

(*2*) The amount of compensation shall—

(*a*) for every destroyed tree of the kind referred to in clause (*a*) of sub-section (*1*) of section 8, not exceed one half of the value of the said tree ;

(*b*) for every destroyed plant of the kind referred to in clause (*b*) of sub-section (*1*) of section 8, not exceed the three-fifths of its value ; and

(*c*) for every destroyed plant or tree of the kind referred to in clause (*c*) of sub-section (*1*) of section 8, be its full value :

Provided that no compensation shall be payable for—

(*i*) any noxious weed destroyed ;

(*ii*) any cotton plant destroyed in order to eradicate or prevent the introduction or reappearance of any insect pest or plant disease ;

(*iii*) the destruction of trees and plants infected with any insect pest or plant disease which in the opinion of the Inspector contracted infection due to the negligence of the occupier in carrying out the preventive or remedial measures mentioned in the notification issued under section 3.

Explanation.—For the purposes of this section, value means the value of a tree or plant at the time of its destruction.

(*3*) If any amount is due from the occupier on account of costs incurred in carrying out the preventive or remedial measures under sub-section (*1*) of section 7, the whole or part of the amount of compensation awarded to him, as may be necessary, shall be set off against the amount of costs due from him.

(*4*) A copy of every award made by an Assessor shall be sent to the occupier to whom such compensation has been awarded and to the Inspector of the notified area concerned.

(*5*) The occupier or the Inspector, as the case may be, may, within 30 days from the date of receipt of a copy of the award under sub-section (*4*), prefer an appeal to the Collector against the award.

(*6*) On receipt of the appeal under sub-section (*5*), the Collector shall, after giving the occupier and the Inspector an opportunity of being heard, pass such order thereon as he thinks fit.

(*7*) Every order passed under sub-section (*6*) shall be final.

Duty of certain village officers to report appearance of insect pest, plant disease or noxious weed.

12. (*1*) If any insect pest, plant disease or noxious weed appears in any village adjoining a notified area, the village officers of such village shall forthwith report the fact to the C llector or such other officer as the [1][State] Government may appoint in this behalf.

(*2*) The Collector or such other officer, as the case may be, shall on receipt of such report and after making such further inquiry as he may deem necessary forward it to the [1][State] Government with his remarks thereon.

Public to assist and to render service in carrying out preventive or remedial measures including destruction of locusts in case of locust menace.

[2][**12A.** (*1*) When any notified area in which locusts have been declared to be an insect pest under section 3 is invaded or is in danger of an invasion by locusts, the C llector or any officer appointed by him in this behalf may, with a view to facilitating preventive or remedial measures against locusts, by proclamation published in the manner hereinafter specified—

(*a*) call upon all male persons not below the age of 14 and above the age of 60 years and re iding in the notified area to render all possible assistance in carrying out preventive or remedial measures and in the destruction of locusts :

[1] This word was substituted for tl e word "Provincial" by the Adaptation of Laws Order, 1950.
[2] Section 12A was inserted by Bom. 33 of 1951, s. 2.

Provided that no person who, on account of physical infirmity, is incapable of rendering assistance or who resides at a distance of more than 5 miles from the place where his assistance is required, shall be called upon to render assistance under this clause ;

(*b*) require all or any male persons not below the age of 18 and above the age of 60 years and residing in the notified area to pre ent themselves at such time and at such place and to such authority as may be specified in the proclamation and to render such service and for such time as may be required of them by the authority to whom they have presented themselves in pursuance of such proclamation :

Provided that no person who, on account of physical infirmity, is incapable of rendering such service shall be called upon to render service under this clause.

(*2*) When any person is called upon to render assistance under clause (*a*) of sub-section (*1*) the C llector or the officer app inted or any officer authorised by the Collector may direct such person to do or not to do any particular thing.

(*3*) Persons who are called upon to render service under clause (*b*) of sub-section (*1*) shall, in consideration of such service, be entitled to such payment as may be prescribed.

(*4*) A proclamation under sub-section (*1*) shall be published by beat of drum in the town or village and by affixing a copy thereof in chawdi r in some other public building or place in the town or village, as the case may be, and the statement in writing by the Collector or officer making the proclamation to the effect that the proclamation was duly published on a specified day, shall be conclusive ev dence that the requirements of this section have been complied with and that the proclamation was published on such day.

(*5*) A proclamation under sub-section (*1*) shall cease to operate at the expiration of three months from the date of its issue unless before the expiration of the aid period of three months, the State Government by public notice extends it to a further period not exceeding three months. The provisions of sub-section (*4*) shall *mutatis mutandis* apply to the publication of such public notice.]

Power to requisition vehicles in case of locust menace.

[1][**12B.** (*1*) When any notified area in which locusts have been declared to be an insect pest under section 3 is invaded or is in danger of an invasion by locusts, the Collector or any officer app inted by him in this behalf may, with a view to facilitating preventive or remedial measures against locusts, by order in writing requisition any vehicle and make such ther orders as may appear to him to be necessary or expedient in connection with such requisition. Any vehicle requisitioned under this section may then be used or dealt with in such manner as may appear to be necessary or expedient to the officer requisitioning the vehicle.

(*2*) (*i*) Every order made under sub-section (*1*) shall,—

(*a*) if it is an order affecting a corporation or a firm, be served in the manner provided for the service of a summons in rule 2 of Order XXIX or rule 3 of Order XXX. as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 ;

V of 1908.

[1] Section 12B was Inserted by Bom. 33 of 1951, s. 2.

(*b*) if it is an order affecting an individual owner other than a corporation or a firm, be served on the owner,—

(*i*) personally by delivering or tendering to him the order, or

(*ii*) by post, or

(*iii*) where the owner cannot be found, by leaving an authentic copy of the order with some adult male member of the family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or worked for gain ;

(*c*) if the ownership of the vehicle to be requisitioned is in dispute, be published in the *Official Gazette*.

(*ii*) Where a question arises whether a person or owner was duly informed of an order made in pursuance of sub-section (*1*) compliance with the requirements of this sub-section shall be conclusive proof that he was so informed ; but failure to comply with the said requirements shall not preclude proof by other means that he was so informed or affect the validity of the order.

(*3*) If the owner of the vehicle does not, after service of the order in the manner provided in sub-section (*2*), place the vehicle in possession of the officer or authority mentioned therein, such officer or authority, as the case may be, may seize the vehicle from any person who may for the time being be in possession thereof.

(*4*) No owner of any vehicle or any person in possession of it shall, after service or publication of an order under this section, remove or allow to be removed any part, tyre, tube or any other accessory or in any way damage the vehicle or permit it to be damaged so as to reduce the usefulness of such vehicle.

(*5*) When any vehicle is requisitioned under this section, there shall be paid to the owner such compensation, as may be agreed upon between him and the officer requisitioning the vehicle and in the absence of such agreement, such compensation as may be determined by the Collector. In determining the amount of compensation, the Collector shall take into consideration the loss caused to the owner by reason of requisition and also the model, make, type, class and condition of the vehicle at the time of requisition .

Provided that the maximum rate of compensation payable to the owner shall not exceed such rate per day as the State Government may, by general or special order, fix from time to time, having regard to the current rates of hire of such vehicles prevailing in the district during the period of requisition.

The order determining the compensation made under this sub-section shall be served in the manner provided in sub-section (*2*).

(*6*) The officer requisitioning any vehicle may at any time release the vehicle from requisition and when it is decided to do so, a notice in writing shall be served on the owner in the manner provided in sub-section (*2*) to take delivery of the vehicle on or before such date and from such place and person as may be specified therein.

(*7*) When such notice is served, with effect from such date no further liability for compensation or payment of any other kind shall accrue for requisitioning the vehicle ;

Provided that the officer requisitioning the vehicle may make such further payment on account of compensation for any material damage done to the vehicle during the period of requisition as may be assessed by the Collector.

(*8*) The delivery of possession of the vehicle to the owner or his accredited agent shall be a full discharge of any liability of the State Government to deliver possession to such person as may have rightful claim to possession thereof but shall not prejudice any right in respect of such vehicle which any other person may be entitled by due process of law to enforce against the person to whom possession of the vehicle is so delivered.

(*9*) If the owner fails to take delivery of the vehicle on or before the specified date the officer who passed the order of release of the vehicle may dispose of the same thereafter in the manner provided in sub-section (*10*):

Provided that such officer shall be competent to allow the owner such extension of time as he deems proper without any liability for any compensation or other payment for the period of extension.

(*10*) The disposal of a vehicle under sub-section (*9*) shall be by public auction and at the risk of the owner and the sale proceeds shall be made over to the owner after deducting any expenditure incurred by the officer releasing the vehicle from requisition due to the owner not taking delivery of it on or before the specified date.

(*11*) The Collector or the officer appointed by him in this behalf may, with a view to requisitioning any vehicle under this section or determining the compensation payable for such requisitioning, by order in writing—

(*a*) require any person to furnish to such officer or authority as may be specified in the order such information in his possession relating to the vehicle as may be specified;

(*b*) direct that the owner or the person in possession of the vehicle shall not without his permission dispose it of or remove it till the expiry of such period as may be specified in the order from the premises or the place in which it is kept.

Explanation.—For the purposes of this section—

(*a*) "owner" includes in relation to a vehicle which is the subject of a hire purchase agreement the person in possession of the vehicle under the agreement;

(*b*) "vehicle" means any vehicle used or capable of being used for the purpose of transport of persons or goods upon roads, whether propelled by mechanical power or not.]

[1][**12C.** (*1*) Every order passed under section 12B, including any order determining compensation for requisitioning vehicles shall be appealable to the Collector if it is passed by any officer lower in rank than that of a Collector and to the prescribed authority if it is passed by the Collector. **Appeal against orders passed under section 12B.**

(*2*) Such appeal shall be presented within 30 days of the date on which the order appealed against was served on the appellant.

(*3*) Every order passed in such appeal shall be final.]

[1][**12D.** Without prejudice to any powers otherwise conferred by this Act, any person authorised in this behalf by the State Government may enter and inspect any premises or vehicle for the purpose of ascertaining or determining whether, and if so, in what manner any order under section 12A or 12B should be made or with a view to securing compliance with any order made thereunder.] **Special powers of entry and inspection.**

[1] Sections 12C and 12D were inserted by Bom. 33 of 1951, s. 2.

Penalty.

13. (*1*) Whoever removes any plant or tree in contravention of the directions contained in a notification issued under section 3 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(*2*) Any occupier who fails to comply with a notice given under sub-section (*1*) of section 6 or with any order passed on appeal under sub-section (*3*) of section 6 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(*3*) Whoever commits a breach of the provisions of any rule made under section 17 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(*4*) Whenever any person is convicted under this Act, the Court may, in addition to the penalty imposed under this Act, order the destruction of any plant or tree of the kind referred in clause (*a*), (*b*) or (*c*) of sub-section (*1*) of section 8.

Further penalties.

[1][**13A.** (*1*) Whoever without reasonable excuse fails to render in the manner required any assistance or service which he is required to render or to do anything or to abstain from doing anything which he is required to do or to abstain from doing in pursuance of a proclamation under section 12A shall, on conviction, be punished with fine which may extend to rupees fifty.

(*2*) Whoever contravenes any order made under section 12B or does anything in contravention of the provisions of the said section shall, on conviction be punished with fine which may extend to rupees five hundred.

(*3*) Whoever voluntarily obstructs or offers any resistance to or impedes or otherwise interferes with—

(*a*) any officer or person exercising any powers or performing any duties conferred or imposed on him by or in pursuance of the provisions of this Act or otherwise discharging any lawful functions in connection with preventive or remedial measures taken or to be taken against locusts under the provisions of this Act or any proclamations, orders or directions made or given thereunder, or

(*b*) any person who is carrying out the orders or directions of any such officer or person as aforesaid or who is otherwise acting in accordance with his duty in pursuance of this Act or any proclamations, orders or directions made or given thereunder,

shall, on conviction, be punished with imprisonment which may extend to three months or with fine which may extend to rupees five hundred or with both.

Special procedure regarding trial of certain offences.

13B. Offences under section 13A shall be tried in accordance with the provisions contained in sections 262 to 265 of the Code of Criminal Procedure, 1898.] V of 1898.

Appointment of Inspectors and Assessors.

14. The [2][State] Government may, by notification in the *Official Gazette*, appoint persons as Inspectors and Assessors for such local areas as may be specified in the notification.

Bar of suit or other legal proceedings.

15. (*1*) No suit, prosecution or legal proceedings shall lie against any person in respect of anything in good faith done or intended to be done under this Act.

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[1] Sections 13A and 13B were inserted by Bom. 33 of 1951, s. 3.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*2*) No prosecution under this Act shall be commenced without the previous sanction of the Collector, nor after six months from the date of the commission of the alleged offence.

16. The powers conferred on the [1][State] Government under this Act may, with the exception of the powers under [2][section 17] be delegated by the [1][State] Government to any officer. Delegation of powers.

17. (*1*) The [1][State] Government may make rules for the purpose of carrying into effect the provisions of this Act. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(*i*) the manner of giving notice under section 5;

(*ii*) the manner of making of an enquiry under sub-section (*1*) of section 11 ;

[3][(*ii-a*) the payment of remuneration to persons for the services required to be rendered under section 12A ;

(*ii-b*) the authority to whom appeals may be made under section 12C against the orders of the Collector and the procedure to be followed in respect of such appeals] ; and

(*iii*) the mode of determining the value of trees and plants for the purposes of this Act.

(*3*) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette*.

Bom. XIV of 1941.

18. The Bombay Agricultural Pests and Diseases Act, 1941, is hereby repealed. Repeal of Bom. XIV of 1941.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] This word and figures were substituted for the words and figures " sections 3 and 17 " by Bom. 10 of 1955, s. 2.
[3] These clauses were inserted by Bom. 33 of 1951, s. 4.

BOMBAY ACT No. XLIV OF 1947.[1]

[THE BOARD OF INDIAN SYSTEMS OF MEDICINE (EXTENSION OF TERM) ACT, 1947.]

Amended by Bom. 75 of 1948.
" " " 40 of 1949.

[*12th December 1947*]

An Act to provide for the extension of the term of office of the members of the Board of Indian systems of medicine, Bombay.

WHEREAS it is expedient to provide for the extension of the term of office of the members of the Board of Indian systems of medicine, Bombay; It is hereby enacted as follows :—

1. (*1*). This Act may be called the Board of Indian Systems of Medicine (Extension of Term) Act, 1947. Short title

[2]* * * * * * *

Bom. XXVI of 1938.

2. Notwithstanding anything contained in sub-section (*1*) of section 6 of the Bombay Medical Practitioners' Act, 1938, hereinafter called "the said Act" the term of office of the members of the Board of Indian systems of medicine, Bombay, which by reason of the provisions of the said sub-section would have expired in March 1948 is [4][, unless terminated earlier on any day by the Provicial Government by notification in the *Official Gazette*, hereby extended upto and inclusive of the 31st day of January 1950. If the Provincial Government terminates the said term earlier, the day on which such term is so terminated or the 31st day of January 1950, as the case may be, shall for the purposes of the said Act] be deemed to be the day of termination of office of the members and no elections or nominations shall be held or made to fill the vacancies of the said members on the expiry of the quinquennium in March 1948, notwithstanding anything contained in the said Act. Extension of term of office of members of Board of Indian systems of medicine, Bombay.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 247; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. XI; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XIII.

[2] Sub-section (2) was deleted by Bom. 40 of 1949, s. 2 (*1*).

[3] The words "and duration" were deleted, *ibid*, s. 2 (*2*).

[4] This portion was substituted for the words, figures and letters "hereby extended upto and inclusive of the 31st day of August 1949 which day for the purposes of the said Act shall," *ibid*, s. 3.

BOMBAY ACT No. XLVII OF 1947.[1]

[THE WASTE LANDS (CLAIMS) (BOMBAY REPEAL) ACT, 1947.]

[*18th December 1947.*]

An Act to repeal the Waste Lands (Claims) (Bombay Repeal) Act, 1943, and the Waste Lands (Claims) Act, 1863.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, it is expedient to repeal the Waste Lands (Claims) (Bombay Repeal) Act, 1943, and the Wast Lands (Claims) Act, 1863; It is hereby enacted as follows :—

26 Geo. 5, Ch. 2. Bom. IX of 1943. XXIII of 1863.

1. This Act may be called the Waste Lands (Claims) (Bombay Repeal) Act, 1947. Short title.

2. The Waste Lands (Claims) (Bombay Repeal) Act, 1943, and the Waste Lands (Claims) Act, 1863, are repealed : Repeal of Bom. IX of 1943 and Act XXIII of 1863.

Bom. IX of 1943. XXIII of 1863.

Provided that in respect of any claim preferred or objection taken under the Waste Lands (Claims) Act, 1863, before the date of the coming into operation of the Waste Lands (Claims) (Bombay Repeal) Act, 1943, all the provisions of the Waste Lands (Claims) Act, 1863, shall be given effect to as if this Act had not been passed.

XXIII of 1863. Bom. IX of 1943. XXIII of 1863.

[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 222.

THE BOMBAY HABITUAL OFFENDERS RESTRICTION ACT, 1947.

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BOMBAY ACT No. LI OF 1947.[1]

[THE BOMBAY HABITUAL OFFENDERS RESTRICTION ACT, 1947.]

[*31st December 1947*]

Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 23 of 1951.
Amended by Bom. 8 of 1954.

An Act to make provision for restricting the movements of habitual offenders in the Province of Bombay for requiring them to report themselves and for placing them in settlements.

WHEREAS it is expedient to make provision for restricting the movements of habitual offenders in the Province of Bombay, for requiring them to report themselves and for placing them in settlements; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Bombay Habitual Offenders Restriction Act, 1947.

(*2*) It extends to the whole of the [2][State] of Bombay.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

V of 1898.

(*1*) "Code" means the Code of Criminal Procedure, 1898;

(*2*) "order of restriction" means an order made under this Act requiring a person other than a child as defined in the [3]Bombay Children Act, 1924—

Bom. XIII of 1924.

(*a*) to restrict his movements to any area within the [2][State] specified in the order, or

(*b*) to report himself at the times and at the places and in the manner specified in the order, or

(*c*) to do both;

(*3*) "order of settlement" means an order made under section 15 placing a person in a settlement established under the said section;

(*4*) "prescribed" means prescribed by rules made under this Act;

(*5*) words and expressions used but not defined in this Act shall have the meanings assigned to them in the Code.

Order of restriction against habitual offenders.

3. (*1*) In any case in which a Magistrate may under the provisions of section 110 of the Code require a person to show cause why he should not be ordered to execute a bond for his good behaviour, the Magistrate may in lieu of or in addition to so doing require such person to show cause why an order of restriction should not be made against him.

Joint proceedings and recorded.

(*2*) If the Magistrate in addition to requiring such person to show cause why he should not be ordered to execute a bond for his good behaviour requires him to show cause why an order of restriction should not be made against him, the proceedings in respect of the order of restriction may be taken jointly with the proceedings in respect of security and may be included in and form part of the same record.

Procedure in making order of restriction.

4. Whenever a Magistrate acting under section 3 deems it necessary to require a person to show cause why an order of restriction should not be made against him, he shall follow, as nearly as may be, the procedure laid down in sections 112, 113, 114, 115 and 117 of the Code for an order requiring security for good behaviour:

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Part V, page 296.
[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[3] See now the Bombay Children Act, 1948 (Bom. 71 of 1948).

Provided that the order in writing referred to in section 112 of the Code shall, in addition to setting forth the substance of the information received, state the term not exceeding three years during which the order of restriction shall be in force although it need not state whether the order of restriction shall be an order requiring him to restrict his movements to any area or requiring him to report himself at any place or requiring him to do both.

Issue of warrant in lieu of or in addition to summons.

5. The provisions of section 90 of the Code shall be applicable in respect of any proceedings under this Act as if they were proceedings under the Code.

Discharge of person informed against.

6. If upon an inquiry made in accordance with the preceding sections, the Magistrate is of opinion that it is not necessary to make an order of restriction against the person in respect of whom the enquiry is made, he shall make an entry to that effect on the record, and if he does not order the execution of a bond for good behaviour he shall, if such person is in custody for the purposes of such inquiry only, release him or if such person is not in custody, discharge him.

Making of order of restriction.

7. If upon an inquiry as aforesaid, the Magistrate is of opinion that it is necessary to make an order of restriction against the person in respect of whom the inquiry is made, the Magistrate shall make an order accordingly:

Provided that the Magistrate shall not make an order of restriction against any person against whom he makes an order under section 118 of the Code requiring such person to execute a bond for his good behaviour:

Provided further that no order of restriction shall be made for a term exceeding three years or for a term longer than that specified in the order referred to in the proviso to section 4.

Restriction order under section 123 (*3*) of the Code.

8. (*1*) A Court acting under sub-section (*3*) of section 123 or an Appellate Court acting under section 406 of the Code, may in lieu of the order requiring any person to give security under section 110 of the Code make an order of restriction for any period not exceeding that for which the security was required to be given.

Restriction order against convicted offenders.

(*2*) In any case in which a Court or Magistrate is empowered to make an order against any convicted person under section 565 of the Code such Court or Magistrate, may, if it or he thinks fit at the time of passing sentence on such person and in lieu of making an order as provided in the said section make an order of restriction against such person for a period not exceeding three years from the date of the expiration of such sentence.

(*3*) If such conviction is set aside on appeal or otherwise, the order of restriction shall become void.

(*4*) No order of restric ion shall be made against any person under this section unless he has been given an opportunity of showing cause why such order should not be made.

Particulars to be specified in restriction order.

9. Every order of restriction made under this Act shall state whether the person against whom the order is made is required to restrict his movements or is required to report himself or is required to do both. The order shall also specify the area and the nature of the restrictions imposed and the places, the times, and the manner of report, as the case may be. The order shall also contain such other particulars as may be prescribed.

Residence or means of livelihood within area of restriction.

10. (*1*) No order shall be made restricting the movements of any person to any particular area unless the Court or Magistrate making the order is satisfied that such person has adequate means of earning his livelihood within such area or ordinarily resides in such area.

(*2*) Before making an order restricting the movements of any person to any area, the Court or Magistrate shall record and consider any objection which such person may urge in regard to the area to which his movements are proposed to be restricted.

Power to cancel or modify order of restriction.

11. [1][(*1*) Where an order of restriction is made against any person, the court or Magistrate making such order or the court or Magistrate to whom an appeal would lie against such order under section 13 may, at any time on its or his own motion or on an application from such person and for sufficient reasons to be recorded in writing, make an order cancelling or modifying the order of restriction.]

(*2*) Such order of modification may provide—

(*a*) that the said person shall report himself at the times and at the places and in the manner specified in the order; or

(*b*) that he shall restrict his movements either to the area in which he ordinarily resides or to any other area in which the Magistrate is satisfied he has reasonable prospects of earning his livelihood.

[2]* * * * * *

Power to substitute restriction order for bond for good behaviour or for order for notifying address.

12. Where an order requiring security for good behaviour has been made against any person under the Code or an order has been made against any person under section 565 of the Code whether before or after the coming into operation of this Act, the Chief Presidency Magistrate in Greater Bombay and elsewhere the District Magistrate may, at any time, before the period of security or the term of the order under section 565, as the case may be, has expired make in lieu thereof an order of restriction :

Provided that—

(*1*) the period of the order of restriction shall not exceed the unexpired portion of the period of security or the term of the order under section 565; and

(*2*) no order of restriction shall be made against any person under this section unless he has been given an opportunity of showing cause why such order should not be made.

Appeal.

13. An appeal shall lie against an order of restriction—

(*i*) to the District Magistrate if such order has been made [3][by an Executive Magistrate] subordinate to him;

(*ii*) to the Court of Session if such order has been made by [4][a Judicial Magistrate or] a District Magistrate;

(*iii*) to the High Court in any other case.

Code to apply to appeals.

14. Subject to the provisions of section 13, the provisions of the Code shall apply to appeals under this Act.

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[1]This sub-section was substituted for the original by Bom. 8 of 1954, s. 2, Schedule—Part III.
[2]Sub-section (*3*) was deleted, *ibid.*
[3]These words were substituted for the words " by a Magistrate " by Bom. 23 of 1951, s. 2., Schedule—Part III.
[4]These words were inserted by Bom. 23 of 1951, s. 2, Schedule—Part III.

Power to establish settlements and place habitual offenders therein.

15. (*1*) For the purposes of this Act, the [1][State] Government may establish industrial, agricultural or reformatory settlements.

(*2*) The [1][State] Government or any officer authorized by the [1][State] Government in this behalf may in lieu of an order of restriction made against any person under this Act make an order directing such person to be placed in a settlement established under sub-section (*1*) for a period not exceeding the period for which the order of restriction has been made.

(*3*) The [1][State] Government or the officer authorized under sub-section (*2*) may at any time, by general or special order, direct any person who may be in any settlement,

(*a*) to be discharged, or

(*b*) to be transferred to some other settlement.

Arrest of person contravening order of restriction or of settlement.

16. (*1*) Whoever being a person against whom an order of restriction or an order of settlement has been made—

(*a*) is found beyond the limits of the settlement or the area to which his movements have been restricted, without the prescribed pass, or in a place or at a time not permitted by the conditions of his pass, or

(*b*) escapes from a settlement, may be arrested without warrant by any police-officer or a police-patel, and may be taken before a Magistrate, who, on proof of the facts, shall order him to be removed to such area or to such settlement, as the case may be, there to be dealt with in accordance with this Act or any rules made thereunder.

(*2*) The rules for the time being in force for the removal of prisoners shall apply to all persons removed under this section:

Provided that an order from the [1][State] Government or from the Inspector-General of Prisons shall not be necessary for the removal of such persons.

Duties of police patel and owners or occupiers of land to give information in certain cases.

17. (*1*) Every police-patel of a village in which any person against whom an order of restriction or order of settlement has been made, and every owner or occupier of land on which any such person resides, and the agent of any such owner or occupier, shall forthwith communicate to the officer-in-charge of the nearest police station any information which he may obtain of the departure of any person from such village or from such land, as the case may be.

(*2*) Every police-patel of a village, and every owner or occupier of land and the agent of any such owner or occupier, shall forthwith communicate to the officer-in-charge, of the nearest police station any information which he may obtain of the arrival at such village or on such land, as the case may be, of any person against whom an order of restriction or order of settlement is reasonably suspected of having been made.

Penalties for breach of rules.

18. (*1*) Whoever, being a person against whom an order of restriction or an order of settlement has been made, contravenes a rule made under clauses (*i*), (*ii*), (*iii*) and (*iv*) of sub-section (*2*) of section 22 shall, on conviction, be punishable with imprisonment for a term which may extend,—

(*a*) on a first conviction, to one year,

(*b*) on a second conviction, to two years, and

(*c*) on any subsequent conviction, to three years,

or with fine which may extend to five hundred rupees, or with both.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*2*) Whoever, being a person against whom an order of restriction or an order of settlement has been made, contravenes any other rule made under section 22 shall be punishable—

(*a*) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both ; and

(*b*) on any subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

(*3*) In computing the period for which an order of restriction or of settlement shall remain in force, any period of imprisonment undergone in execution of a sentence passed under sub-section (*1*) or (*2*) shall be excluded.

(*4*) Any person who commits or is reasonably suspected of having committed an offence made punishable by this section which is not a cognizable offence as defined in the Code may be arrested without a warrant by any officer-in-charge of a police-station or by any police-officer not below the rank of a Sub-Inspector.

Enhanced punishment for certain offences by persons against whom order of restriction or order of settlement has been made after previous conviction.

19. (*1*) Whoever, being a person against whom an order of restriction or an order of settlement has been made and having been convicted of any of the offences under the Indian Penal Code specified in the Schedule, is convicted of the same or of any other offence specified in the Schedule, shall, on conviction, be punishable with transportation for life or with imprisonment of either description for a term which may extend to ten years.

XLV of 1860.

(*2*) Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code or any other law.

XLV of 1860.

Punishment for persons against whom restriction order or settlement order has been made, found under suspicious circumstances.

20. Whoever, being a person against whom an order of restriction or an order of settlement has been made, is found in any place under such circumstances as to satisfy the Court,—

(*a*) that he was about to commit, or aid in the commission of, theft or robbery, or

(*b*) that he was making preparation for committing theft or robbery,

shall, on conviction, be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine which may extend to one thousand rupees.

Penalty for breach of duties by police-patel, owners or occupiers of land or their agents.

21. Any police-patel, owner or occupier of land, or the agent of any such owner or occupier, who fails to comply with the requirements of section 17, shall be deemed to have committed an offence punishable under the first part of section 176 of the Indian Penal Code.

XLV of 1860.

Rules.

22. (*1*) The [1][State] Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for—

(*i*) the areas to which the movements of any person may be restricted and the nature of the restrictions to be observed by such persons ;

(*ii*) the times and places at which and the manner in which such persons shall report themselves ·

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*iii*) the conditions as to holding passes under which such persons may be permitted to leave the area to which their movements have been restricted or the settlement in which they have been settled ;

(*iv*) the conditions to be inserted in any such pass in regard to—

(*a*) the place to which the holder of the pass may or may not go ;

(*b*) the persons before whom from time to time he shall be bound to present himself ;

(*c*) the period during which he may be absent ;

(*v*) any other particulars deemed necessary to be included in an order of restriction ;

(*vi*) the circumstances in which persons against whom an order of restriction or an order of settlement has been made shall be required to possess and produce for inspection certificates of identity, and the manner in which such certificates shall be granted ;

(*vii*) the management, control and supervision of industrial, agricultural or reformatory settlements ;

(*viii*) the works on which, and the hours during which, persons placed in an industrial, agricultural or reformatory settlement shall be employed, the rate at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour ;

(*ix*) the discipline to which persons endeavouring to escape from any industrial, agricultural or reformatory settlement or otherwise offending against the rules for the time being in force, shall be subject and the periodical visitation of such settlement.

Criminal Tribes Act to cease to extend to [1][State] of Bombay.

23. The Criminal Tribes Act, 1924, shall cease to extend to the [1][State] of Bombay with effect from such date not being later than 2 years from the date of the coming into operation of this Act as may be notified in that behalf by the [2][State] Government in the *Official Gazette*. VI of 1924.

Savings.

24. Nothing in this Act shall affect the powers of any competent authority under any other law for the time being in force to make an order of restriction or detention and any order of restriction or of settlement passed under this Act in so far as it may conflict with any order made by a competent authority under such law shall be deemed to be inoperative while the order under such law remains in force.

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[1] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[2] This word was substituted for the word "Provincial", *ibid.*

[3] These words were substituted for the words "Queen's coin", *ibid.*

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THE DISPOSITIONS OF PROPERTY (BOMBAY) VALIDATION ACT, 1947.

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4. Saving.

SCHEDULE.

BOMBAY ACT No. LIV OF 1947.[1]

[THE DISPOSITIONS OF PROPERTY (BOMBAY) VALIDATION ACT, 1947.]

[*16th January 1948.*]

An Act to validate certain dispositions of property in the Province of Bombay.

WHEREAS it is expedient to validate certain dispositions of property in the Province of Bombay; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Dispositions of Property (Bombay) Validation Act, 1947.

Application of Act.

2. This Act shall apply to all trusts made, and to all wills and other testamentary dispositions of persons who have died, before the first day of January one thousand nine hundred and forty-five—

(*a*) where such trusts, wills or testamentary dispositions relate to immovable property situate within the Province of Bombay;

(*b*) where such trusts, wills or testamentary dispositions relate to property of every description other than immovable property and are declared, executed or made by a settlor or testator, as the case may be, in the Province of Bombay, notwithstanding anything to the contrary contained in Part II of the Indian Succession Act, 1925.

XXXIX of 1925.

Validation of certain dispositions.

3. (*1*) The following provisions of law shall not apply and shall be deemed never to have applied to the dispositions of property contained in or made by the instruments mentioned in section 2, namely, (*a*) section 13 of the Transfer of Property Act, 1882, and (*b*) section 113 of the Indian Succession Act, 1925.

IV of 1882.
XXXIX of 1925.

(*2*) To the dispositions of property contained in or made by the instruments mentioned in section 2 the enactments mentioned in the first column of the Schedule to this Act shall apply, and shall be deemed to have always applied, with the omissions and modifications specified in the second column of the Schedule.

Saving.

4. Nothing in this Act shall be deemed to affect or prejudice in any way any right, title or interest accrued to any person under a final decree or order of a competent court or acquired by any person for valuable consideration before the coming into force of this Act.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 386.

SCHEDULE.

1 Enactments.	2 Omissions and modifications.
Section 15 of the Transfer of Property Act, 1882.	For "sections 13 and" substitute "section".
Section 16 of the Transfer of Property Act, 1882.	For "sections 13 and" substitute "section".
Clause (*b*) of section 3 of the Hindu Disposition of Property Act, 1916.	Omit "113,".
Section 115 of the Indian Succession Act, 1925.	Omit "section 113 or".
Section 116 of the Indian Succession Act, 1925.	For "sections 113 and" substitute "section".
Schedule III to the Indian Succession Act, 1925.	Omit "113,".
Clause (5) under the heading "*Restrictions and modifications in application of foregoing sections*" in Schedule III to the Indian Succession Act, 1925.	Omit "one hundred and thirteen,".

THE BOMBAY WAREHOUSES ACT, 1947.

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BOMBAY ACT No. LVI OF 1947.[1]

[THE BOMBAY WAREHOUSES ACT, 1947.]

[*19th January 1948*]

Amended by Bom. 53 of 1949.

An Act to provide for the regulation and licensing of warehouses in the Province of Bombay.

WHEREAS it is expedient to encourage the establishment of private warehouses and make provision for their proper supervision and control ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Warehouses Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

Bom. VII of 1925.

(*a*) " Co-operative Society " means a society registered or deemed to be registered under the provisions of the Bombay Co-operative Societies Act, 1925.

(*b*) " Depositor " means a person or firm which tenders goods to the warehouseman for storing in his warehouse and includes any person who lawfully holds the receipt issued by the warehouseman in respect of the goods and derives title to it by endorsement or transfer from the depositor or his lawful transferee.

Bom. XXII of 1939.

(*c*) " Goods " means agricultural produce as defined in the Bombay Agricultural Produce Markets Act, 1939, but does not include the produce of animal husbandry.

(*d*) " Licence " means a licence granted under section 5 or renewed under section 7.

(*e*) " Prescribed " means prescribed by rules made under this Act.

(*f*) " Prescribed authority " means the authority empowered by the Provincial Government to carry out the duties under this Act.

(*g*) " Receipt " means a warehouse receipt, in the form prescribed, issued by a warehouseman to a depositor depositing goods in a warehouse.

(*h*) " Warehouse " means a building, structure or other protected enclosure which is used or may be used for the purpose of storing goods.

(*i*) " Warehouseman " means a person or firm holding a licence for issuing under section 27, receipts for goods stored in his warehouse.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 257.

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CHAPTER II.

LICENSING OF WAREHOUSES.

Prohibition of carrying on business as warehouseman without licence.

3. Subject to the provisions of section 11, no person or firm shall without a licence carry on the business of a warehouseman or represent or hold himself out as a warehouseman.

Application.

4. Every person or firm desirous of carrying on the business of a warehouseman shall take out a licence by making an application to the prescribed authority.

Grant of licence.

5. The prescribed authority may on payment of the prescribed fee grant a licence to such person or firm for the conduct of his business in accordance with the terms of the licence and the provisions of this Act and the rules made thereunder.

Conditions for grant of licence.

6. Before granting a licence the prescribed authority shall satisfy itself—

(*i*) that the warehouse is suitable for the proper storage of the particular goods for which a licence has been applied for,

(*ii*) that the applicant is competent to conduct such a warehouse,

(*iii*) that the applicant furnishes to the prescribed authority such security and in such manner as may be prescribed,

(*iv*) that there is no other reason for which the applicant may in the opinion of the prescribed authority be deemed to be disqualified, and

(*v*) that the applicant fulfils any other condition which the Provincial Government may, by notification in the *Official Gazette*, specify in this behalf.

Term and renewal of licence.

7. Every licence shall be valid for the prescribed period and may on the expiry of such period be renewed by the prescribed authority on an application made by the warehouseman in that behalf and on payment of the prescribed fee.

Licences when to be revoked.

8. Every licence shall be liable to be revoked by the prescribed authority for reasons to be stated in writing in the order of revocation and in particular if the warehouseman—

(*a*) has been adjudged an insolvent ;

(*b*) has parted in whole or in part with his control over the licensed warehouse ;

(*c*) has ceased to conduct such licensed warehouse ;

(*d*) has made exorbitant or unreasonable charges for services rendered by him ;

(*e*) has in any manner become incompetent to conduct the business of a warehouseman ; or

(*f*) has contravened any of the terms of the licence or any of the provisions of this Act and the rules made thereunder or any other condition which the Provincial Government may, by notification in the *Official Gazette*, specify.

Notice to be given before revocation of licence and suspension and revocation of licence.

9. (*1*) Before revoking a licence the prescribed authority shall give notice to the warehouseman specifying the charges against him and calling upon him to show cause why the licence should not be revoked.

(*2*) After considering the explanation, if any, offered by the warehouseman, the prescribed authority may revoke the licence or pass such orders as it deems just.

(*3*) The prescribed authority may suspend the licence of a warehouseman pending the decision on the enquiry referred to in sub-sections (*1*) and (*2*).

Appeals and revision.

10. (*1*) An appeal shall lie to the Collector against an order of revocation of a licence within sixty days from the date of such order.

(*2*) On receipt of an appeal under sub-section (*1*), the Collector shall, after giving the warehouseman and the prescribed authority an opportunity of being heard, pass such order thereon as he thinks fit.

(*3*) The Provincial Government may at any time call for and examine the record of any proceedings before the prescribed authority or the Collector relating to suspension or revocation of a licence for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed therein, and as to the regularity of such proceedings and may either annul, reverse, modify or confirm such order or pass such other order as it may deem fit.

(*4*) Every order passed by the prescribed authority under section 9, subject to an appeal or revision as provided in this section, and every order passed by the Collector in appeal, subject to such revision, and every order passed by the Provincial Government in revision shall be final and shall not be liable to be questioned in any court of law.

Return of licence.

11. When a licence expires or is suspended or revoked, the warehouseman shall cease to carry on the business of a warehouseman and shall return the licence to the prescribed authority :

Provided that the prescribed authority shall after such expiration, suspension or revocation give such reasonable time as it thinks fit to such warehouseman to enable him to wind up the business and notwithstanding anything contained in section 3, the warehouseman may carry on the business of a warehouseman during the said time.

Duplicate licences.

12. Where a licence granted to a warehouseman is lost or destroyed, the prescribed authority may issue a duplicate thereof on an application made in that behalf by the warehouseman and on payment of the prescribed fee.

CHAPTER III.

Duties of a Warehouseman.

Reasonable care of goods stored.

13. Every warehouseman shall take such care of the goods in his custody as a man of ordinary prudence would take of his own goods under similar circumstances and conditions.

Precautions against damage or injury to goods.

14. (*1*) Every warehouseman shall keep his warehouse in such condition as may be prescribed and in accordance with the terms of the licence in order to prevent loss, damage or injury to the goods stored in the warehouse.

(*2*) No warehouseman shall accept for storing in his warehouse goods which are contaminated or infected by worms and pests, and which are likely to cause damage to other goods stored in the warehouse.

Preservation of identity of goods.

15. Every warehouseman shall keep in his warehouse the goods of one depositor so far separate from the goods of other depositors and from other goods of the same depositor for which a separate receipt has been issued as to permit at all times the identification and delivery of the goods deposited :

Provided that where standardised and graded goods are stored in a warehouse, subject to any agreement between the warehouseman and depositor, the same variety of goods belonging to different depositors may be mingled together by the warehouseman and each depositor will be entitled only to his portion of the goods according to weight or quantity, as the case may be, as shown in his receipt.

Goods deteriorating in warehouses and their disposal.

16. (*1*) Whenever goods stored in a warehouse deteriorate or are about to deteriorate from causes beyond the control of the warehouseman, he shall forthwith give notice of such deterioration to the depositor asking him to take delivery of the goods immediately on surrendering the receipt duly discharged and on payment to the warehouseman of all dues. If the depositor does not comply with the notice within a reasonable time, the warehouseman may cause such goods to be removed from his warehouse and sold by public auction at the cost and risk of the depositor.

(*2*) Any person interested in any goods or the receipt covering such goods stored in a warehouse may, in writing, notify the warehouseman of the fact and nature of his interest in the goods and the warehouseman shall keep a record thereof. If the person requests in writing that he be notified regarding the condition of the goods and agrees to pay the charges for such notification, the warehouseman shall notify such person accordingly.

Delivery of goods.

17. Every warehouseman in the absence of any reasonable or lawful excuse shall, without unnecessary delay, deliver the goods stored in his warehouse to the depositor on demand made by him and on surrender of the warehouse receipt duly discharged and on payment of the charges due to the warehouseman. Subject to any agreement between the warehouseman and the depositor, the depositor may take partial delivery of the goods stored in the warehouse.

Accounts, books, etc., to be maintained and kept in safe place by warehouseman.

18. Every warehouseman shall keep and maintain in a place of safety such books, accounts and records as may be prescribed.

Insurance of goods in warehouses.

19. (*1*) Every warehouseman shall insure in such manner as may be prescribed the goods stored in his warehouse against loss or damage by fire, floods, theft or any other accident.

(*2*) Every warehouseman shall be entitled to recover from the depositor at the rate prescribed the charges for insurance in respect of the depositor's goods before delivery thereof and shall have a lien on the said goods in respect of such charges.

Discrimination prohibited.

20. Every warehouseman shall receive for storage therein so far as its capacity permits any goods of the kind customarily stored by him therein, which may be tendered to him in a suitable condition for storing in the usual manner in the ordinary and usual course of business without making any discrimination between persons desiring to avail themselves of the facilities of his warehouse :

Provided that a warehouseman may grant such concessions to a co-operative society as may be prescribed.

Warehouseman other than co-operative society not to lend money against goods in warehouse.

21. Notwithstanding anything contained in any law, no warehouseman other than a co-operative society shall, either on his own account or that of others, deal in or lend money on goods which he receives for storage in his warehouse.

CHAPTER IV.

Inspection and Classification of Goods.

Inspection.

22. The prescribed authority may inspect or cause to be inspected, examine, or cause to be examined the warehouse of a warehouseman, its machinery, equipment, goods stored therein and the account books and records at any time during business hours for the purpose of satisfying itself that the requirements of this Act and the rules made thereunder are complied with.

Licensed weighers, samplers and classifiers.

23. (*1*) The prescribed authority may issue licences to qualified and competent persons entitling them to act as weighers, samplers and classifiers of any goods stored or to be stored in a warehouse and to issue certificates as to weight, quality or grade of the goods which they have examined.

(2) The certificates issued by weighers, samplers and classifiers as to weight, quality or grade of the goods stored in the warehouse shall, subject to any order in appeal preferred by either of them to the Board of Arbitrators, be binding on the warehouseman and depositor.

(3) The prescribed authority may appoint a Board of Arbitrators to decide complaints against weighers, samplers and classifiers or warehouseman relating to weight, quality or grade of the goods stored in the warehouse. The decision of the Board of Arbitrators shall be final and shall not be liable to be questioned in a court of law.

Suspension or revocation of licences.

24. Subject to rules made in this behalf every licence granted to a weigher, sampler or classifier shall be liable to be suspended or revoked by the prescribed authority.

Return of licences.

25. Whenever a licence granted to a weighter, sampler or classifier expires, or is suspended or revoked, he shal return it to the prescribed authority.

Prohibition of unlicenced weighers classifiers, etc.

26. No person who is not licensed under this Chapter shall represent or hold himself out as a licensed weigher, sampler, or classifier.

CHAPTER V.

Warehouse Receipts.

Issue of receipts.

27. [1][Every warehouseman shall, at the time when goods are received by him for deposit in a warehouse] issue a receipt in the prescribed form con aining full particulars in respect of the goods stored in his warehouse by each depositor.

Receipt transferable by endorsement.

28. A receipt issued by a warehouseman shall, unless otherwise specified on the receipt, be transferable by endorsement and shall entitle its lawful holder to receive the goods specified in it on the same terms and conditions on which the person who originally deposited the goods would have been entitled to receive them.

Duplicate receipts.

29. In case a receipt is lost or destroyed, a warehouseman shall issue a duplicate thereof to the depositor on an application made by him in that behalf. The duplicate receipts shall be issued under such conditions as may be prescribed.

CHAPTER VI.

Miscellaneous.

Security amount to be forfeited and recovered as arrear of land revenue.

30. (1) If a warehouseman contravene any of the conditions of his licence or fails to comply with or acts in contravention of any provision of this Act.—

(a) the amount of security deposited by him unde a bond executed by him under the provisions of this Act shall be liable to be forfeited ; and

(b) the amoun due under such bond shall be recoverable from him or from his sureties or their heirs or legal representatives as an arrea of land revenue.

(2) The Provincial Government may make payment out of the amount so forfeited or recovered to any person who may have sustained loss by reason of the warehouseman failing to comply with, or acting in contravention of, any provision of this Act.

Penalty.

31. (1) Whoever fails to comply with, or acts in contravention of, any provision of this Act, shall, on conv ction, be punishable—

(a) in the case of contravention or the provisions of section 3 or 21, with simple imprisonment which may extend to six months and fine which may extend to Rs. 1,000, and

(b) in any other case, with fine which may extend to Rs. 1,000.

(2) Where a person commi ting an offence under sub-section (1) is a company, or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

No compensation for suspension or cancellation of licence.

32. Where any licence is suspended or cancelled under this Act, no person shall be entitled to any compensation or the refund of any fee paid in respect thereof

[1]These words were substituted for the words " Every ware-houseman shall " by Bom. 53 of 1949, s. 3, Second Schedule.

Power of Provincial Government to delegate its powers.

33. The Provincial Government may delegate to any officer or authority subordinate to it any of the powers conferred on it by or under this Act.

Rules.

34. (*1*) The Provincial Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters, namely :—

(*a*) the authority empowered to carry out the duties under this Act ;

(*b*) the form of receipt under clause (*g*) of section 2 ;

(*c*) the form of application for taking out a licence under section 4, for its renewal under section 7 and for the issue of a duplicate licence under section 12 ;

(*d*) the fee for grant of a licence and the terms of the licence in accordance with which the business of a warehouseman shall be conducted under section 5 and the period for which the licence shall be valid under section 7 ;

(*e*) the amount of security and the manner of furnishing the same (including the form of bond) under clause (iii) of section 6 ;

(*f*) the fee for the renewal of a licence under section 7 and for the issue of a duplicate under sect on 12 ;

(*g*) the conditions on or under which a licence may be renewed and a duplicate thereo issued ;

(*h*) the condition in which a warehouse shall be kept under sub-section (*1*) of section 14 ;

(*i*) the books, accounts and records to be kept and maintained under section 18;

(*j*) the manner in which goods shall be insured under sub-section (*1*) of section 19 ;

(*k*) the rates at which the charges for insurance shall be recoverable under sub-section (*2*) of section 19 ;

(*l*) the concessions which may be granted to a co-operative society under section 20 ;

(*m*) the qualifications of, and grant of licences to weighers, samplers and classifiers, the conditions on which and the period for which the licences may be granted to them, the form of certificates to be issued by them, the renewal of their licences, the conditions on which duplicate licences may be issued, and the conditions under which the licences may be suspended or revoked for the purposes of sections 23 and 24 ;

(*n*) the conditions under which a duplicate receipt may be issued under section 29;

(*o*) the publication of the grant, suspension and revocation of licences and the list of warehousemen and their warehouses ;

(*p*) the charges to be made by a warehouseman for storing goods in his warehouse ;

(*q*) the manner of giving notices under this Act ;

(*r*) the manner of conducting a public auction for the sale of goods deteriorating or about to deteriorate in a warehouse and accounting for the proceeds of such sales by a warehouseman ;

(*s*) the classification of goods stored by a warehouseman ;

(*t*) the standard weights and measures to be used by a warehouseman

(*u*) the procedure to be followed in proceedings before the Board of Arbitrators and the mode of executing their awards ;

(*v*) generally for the efficient conduct of the business of a warehouseman.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

THE BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL ACT, 1947.

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BOMBAY ACT No. LVII OF 1947.[1]

[THE BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL ACT, 1947.]

[*19th January 1948*]

Amended by Bom. 36 of 1948.
,, ,, ,, 3 of 1949.
,, ,, ,, 53 of 1949.
,, ,, ,, 58 of 1949.*
,, ,, ,, 59 of 1949.
,, ,, ,, 16 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 53 of 1950.
,, ,, ,, 42 of 1951.
,, ,, ,, 43 of 1951.
,, ,, ,, 15 of 1952.
,, ,, ,, 4 of 1953.
,, ,, ,, 61 of 1953.
,, ,, ,, 46 of 1954.*

An Act to amend and consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions.

WHEREAS it is expedient to amend and consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions ; It is hereby enacted as follows :—

PART I.

Preliminary.

Short title. 1. This Act may be called the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

Extent. 2. (*1*) Parts I and IV of this Act shall extend to the whole of the [2][State] of Bombay.

(*2*) Parts II and III shall extend respectively to the areas specified in Schedules I and II to this Act and shall continue to extend to any such area notwithstanding that the area ceases to be of the description therein specified.

(*3*) The [3][State] Government may, by notification in the *Official Gazette* extend to any other area any or all of the provisions of Part II or Part III or of both.

(*4*) The [3][State] Government may, at any time by like notification direct that any or all the provisions of Part II or Part III or of both, as the case may be, shall cease to extend to such area and on such date as may be specified in the notification ; and on that date the said provisions shall cease to be in force in such area.

Commencement and duration. 3. (*1*) This Act shall come into operation on such date as the [3][State] Government may, by notification in the *Official Gazette*, appoint in this behalf.

(*2*) It shall remain in force up to and inclusive of the 31st day of March [4][1959].

[5]* * * * * * * *

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Part V, page 364.
[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word "Provincial", *ibid.*
[4] These figures were substituted for the figures "1954" by Bom. 61 of 1953, s. 2.
[5] The proviso to sub-section (*2*) was deleted, *ibid*, s. 2 (*2*).

*Section 7 of Bom. 58 of 1949 reads as follows :—

Savings. "7. The amendments made in the said Act by the provisions of sections 4 and 5 of this Act shall not have any effect in respect of and apply to any suit or proceeding pending in any court on the date on which this Act comes into force or to execution or other proceeding arising out of any decree or order passed by any court before the date on which this Act comes into force and any such suit or proceeding shall be continued or instituted and disposed of as if this Act had not been passed."

Bom. LXI of 1953.

*Section 3 of Bom. 46 of 1954 reads as follows :—

Coming into force of section 2 of this Act with retrospective effect. "3. The amendment made by section 2 of this Act shall be deemed to have come into force on and from the date on which the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1953, came into force."

(*3*) Section 7 of the Bombay General Clauses Act, 1904, shall apply upon the expiry of this Act or upon this Act or any provision thereof ceasing to be in force in any area, as if it had then been repealed by a Bombay Act. Bom. I of 1904.

Exemptions.

4. (*1*) This Act shall not apply to any premises belonging to the Government or a local authority or apply as against the Government to any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or requisitioned by the Government ; but it shall apply in respect of premises let to the Government or a local authority.

(*2*) The [1][State] Government may direct that all or any of the provisions of this Act [2][shall not subject to such conditions and terms, as it may specify, apply generally].

[3][(*i*) to premises used for a public purpose of a charitable nature or to any class of premises used for such purpose ;

(*ii*) to premises held by a public trust for a religious or charitable purpose and let at a nominal or concessional rent ; or

(*iii*) to premises held by a public trust for a religious or charitable purpose and administered by a local authority].

[4][(*3*) The [1][State] Government may also by order direct that all or any of the provisions of Part III shall not apply to such hostel or institution or such class of hostels or institutions, subject to such terms and conditions, if any, as may be specified in the order.]

[5][(*4*) (*a*) The expression " premises belonging to the Government or a local authority " in sub-section (*1*) shall, notwithstanding anything contained in the said sub-section or in any judgment, decree or order of a court, not include a building erected on any land held by any person from the Government or a local authority under an agreement, lease or other grant, although having regard to the provisions of such agreement, lease or grant the building so erected may belong or continue to belong to the Government or the local authority, as the case may be ; and

(*b*) notwithstanding anything contained in section 15 such person shall be entitled to create a tenancy in respect of such building or a part thereof.]

Power of State Government to issue orders in respect of premises belonging to local authority.

[6][**4A.** Notwithstanding anything contained in this Act, the State Government may from time to time by a general or special order direct that the exemption granted to a local authority under sub-section (*1*) of section 4 shall be subject to such conditions and terms as it may specify either generally or for special reasons in any particular case and such conditions and terms shall be applicable to the premises belonging to the local authority with effect from such date either before or after the commencement of the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1953, as the State Government may in its discretion determine.] Bom. LXI of 1953.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words " shall not apply " by Bom. 53 of 1950, s. 2.

[3] This portion was substituted for the words " to premises used for a public purpose of a charitable nature or to any particular premises or class of premises used for such purpose ", by Bom. 61 of 1953, s. 3.

[4] Sub-section (*3*) was added by Bom. 53 of 1950, s. 3.

[5] Sub-section (*4*) was added by Bom. 4 of 1953, s. 3.

[6] Section 4A was inserted by Bom. 61 of 1953, s. 4.

Definitions.

5. In this Act unless there is anything repugnant to the subject or context—

(*1*) "fair rate" means the rate fixed under section 33 and includes the rate as revised under section 34 ;

(*2*) "hotel or lodging house" means a building or a part of a building where lodging with or without board or other service is [1][by way of business] provided for a monetary consideration ;

(*3*) "landlord" means any persor who is for the time being, receiving, of entitled to receive, rent in respect of any premises whether on his own account or on account, or on behalf, or for the benefit of any other person or as a trustee guardian, or receiver for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant ; and includes any person not being a tenant who from time to time derives title under a landlord ; and further includes in respect of his sub-tenant a tenant who has sub-let any premises ;

V of 1908. (*4*) "legal representative" means a legal representative as defined in the Code of Civil Procedure, 1908, and includes also, in the case of joint family property. the joint family of which the deceased person was a member.

(*5*) "manager of a hotel" includes any person in charge of the management of a hotel ;

(*6*) "owner of a lodging house" includes any peson who receives or is entitled to receive, whether on his own account or on behalf of himself and others or as an agent or trustee, any monetary consideration from any person on account of board, lodging or other service ;

(*7*) "permitted increase" means an increase in rent permitted under the provisions of this Act ;

(*8*) "premises" means—

(*a*) any land not being used for agricultural purposes,

(*b*) any building or part of a building let separately (other than a farm building) including—

(*i*) the garden, grounds, garages and out-houses, if any, appurtenant to such building or part of a building,

(*ii*) any furmture supplied by the landlord for use in such building or part of a building,

(*iii*) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof,

but does not include a room or other accommodation in a hotel or lodging house ;

(*9*) "prescribe" means prescribe by rules and prescribed shall be construed accordingly ;

(*10*) "standard rent" in relation to any premises means—

Bom. XVI 1939. Bom. VII of 1944. (*a*) where the standard rent is fixed by the Court and the Controller respectively under the Bombay Rent Restriction Act, 1939, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, such standard rent ; or

[1] These words were inserted by Bom. 61 of 1953, s. 5 (*1*).

(*b*) where the standard rent is not so fixed—

subject to the provisions of section 11,

(*i*) the rent at which the premises were let on the first day of September 1940, or

(*ii*) where they were not let on the first day of September 1940, the rent at which they were last let before that day, or

(*iii*) where they were first let after the first day of September 1940, the rent at which they were first let, or

(*iv*) in any of the cases specified in section 11, the rent fixed by the Court;

(*11*) "tenant" means any person by whom or on whose account rent is payable for any premises and includes—

(*a*) such sub-tenants and other persons as have derived title under a tenant before the coming into operation of this Act,

[1][(*aa*) any person to whom interest in premises has been transferred under the proviso to section 15;]

(*b*) any person remaining, after the determination of the lease, in possession, with or without the assent of the landlord, of the premises leased to such person or his predecessor who has derived title before the coming into operation of this Act,

(*c*) any member of the tenant's family residing with him at the time of his death as may be decided in default of agreement by the Court.

[2][(*12*) "tenement" means a room or group of rooms rented or offered for rent as a unit.]

PART II.

Residential and other premises.

Application.

6. (*1*) In areas specified in Schedule I, this Part shall apply to premises let for residence, education, business, trade [3][or] storage[4]* * *:

[5][Provided that the [6][State] Government may, by notification in the *Official Gazette*, direct that in any of the said areas, this Part shall cease to apply to premises let for any of the said purposes.]

[7][Provided further that the State Government may by like notification direct that in any of the said areas this Part shall re-apply to premises let for such of the aforesaid purposes as may be specified in the notification.]

[8][(*1A*) The [6][State] Government may, by notification in the *Official Gazette*, direct that in any of the said areas this Part shall apply to premises let for any other purpose.]

(*2*) In areas to which this Part is extended under sub-section (*3*) of section 2, it shall apply to premises let for such of the purposes referred to [9][in sub-section (*1*) or notified under sub-section (*1A*)] or let for such standard rent as the [6][State] Government may, by notification in the *Official Gazette*, specify.

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[1] This sub-clause was inserted by Bom. 61 of 1953, s. 5 (*2*).
[2] Clause (*12*) was added by Bom. 53 of 1950, s. 3.
[3] The word "or" was inserted by Bom. 36 of 1948, s. 2 (*a*).
[4] The words "or any other purpose notified in the *Official Gazette* by the Provincial Government" were deleted, *ibid.*, s. 2 (*a*) (*ii*).
[5] This proviso was added, *ibid*, s. 2 (*b*).
[6] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[7] This proviso was added by Bom. 53 of 1950, s. 4.
[8] This sub-section was inserted by Bom. 36 of 1948, s. 2 (*c*).
[9] These words were substituted for "in, or notified under sub-section (*1*)", *ibid*, s. 2 (*d*).

Rent in excess of standard rent illegal.

7. Except where the rent is liable to periodical increment by virtue of an agreement entered into before the first day of September 1940, it shall not be lawful to claim or receive on account of rent for any premises any increase above the standard rent, unless the landlord was, before the coming into operation of this Act, entitled to recover such increase under the provisions of the Bombay Rent Restriction Act, 1939, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, or is entitled to recover such increase under the provisions of this Act.

Bom. XVI of 1939. Bom. VII of 1944.

Cases where rent to be deemed and not to be deemed to be increased.

8. (*1*) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased for the purposes of this Part whether the sum payable as rent is increased or not.

(*2*) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are not on the whole less favourable to the tenant than the previous terms, the rent shall not be deemed to be increased for the purposes of this Part whether the sum payable as rent is increased or not.

Increase in rent on account of improvements, etc., excepted.

9. A landlord shall be entitled to make such increase in the rent of the premises, as may be reasonable, for an improvement or structural alteration of the premises which has been made with the consent of the tenant given in writing; and such increase shall not be deemed to be an increase for the purposes of section 7.

Explanation.—In this section improvements and alterations do not include the repairs which the landlord is bound to make under sub-section (*1*) of section 23.

Increase in rent on account of payment of rates, etc., excepted.

10. Where a landlord is required to pay to a local authority in respect of any premises any rate, cess or tax imposed or levied for the purposes of such authority, he shall be entitled to make an increase in the rent of the premises by an amount not exceeding the increase paid by him [1][by way of such rate, cess or tax over the amount paid] in the period of assessment which included the date of the coming into operation of this Act [2][or the date on which the premises were first let, whichever is later,] and such increase in rent shall not be deemed to be an increase for the purposes of section 7.

Increase in rent on account of payment of increased rates, etc., after 31st March 1949 not permitted in certain areas.

[3][**10A.** Notwithstanding anything contained in section 10,—

(*1*) if in the City of Bombay the general tax levied under section 143 of the City of Bombay Municipal Act, 1888, or in any other area specified in Schedule III to this Act a rate or tax on buildings, houses or lands or a rate or tax in the form of such rate or tax on buildings, houses or lands levied under the Bombay Municipal Boroughs Act, 1925, or the Bombay District Municipal Act, 1901, or the Cantonments Act, 1924, or the Bombay Village Panchayats Act, 1933, as the case may be, is increased after the 31st day of March 1949, a landlord shall not, in respect of any premises situated in the City of Bombay or in any of the areas specified in the said Schedule, as the case may be, and let on or before the said date, be entitled to make any further increase in the rent of the said premises on account of the payment by him of such increase in the rate or tax;

Bom. III of 1888. Bom. XVIII of 1925. Bom. III of 1901. II of 1924. Bom. VI of 1933.

(*2*) a landlord shall not be entitled to make any increase in the rent of any premises situated in the City of Bombay or in any of the areas specified

[1] These words were substituted for the words " in such rate, cess or tax " by Bom. 36 of 1948, s. 3(*a*).
[2] These words were inserted, *ibid.*, s. 3(*b*).
[3] This section was inserted by Bom. 3 of 1949, s. 2.

in the said Schedule and let after the 31st day of March 1949 on account of the payment by him of any increase in such rate or tax;

(*3*) the [1][State] Government may, by notification published in the *Official Gazette*, direct that in any area other than the City of Bombay or those specified in Schedule III, a landlord shall not be entitled to make any increase in rent in respect of any premises situate in such area on account of the payment by him of an increase in the rate or tax imposed or levied by any local authority for its own purpose on buildings, houses or lands after such date, as may be specified in the notification.]

[2][(*4*) if the general tax levied under section 129 of the Bombay Provincial Municipal Corporations Act, 1949, in respect of any premises in any city exceeds the amount paid by any landlord to any local authority on account of a rate or tax on buildings, houses or lands in respect of such premises for the assessment period which included the 31st March 1949, there shall be deemed to be an increase in such rate or tax for the purpose of this section.] Bom. LIX of 1949.

Increase in rent on account of payment of increased rates etc., permitted after certain date in certain areas.

[3][**10AA.** (*1*) Notwithstanding anything contained in sections 10 and 10A,—

(*a*) if in Greater Bombay the general tax levied under section 143 of the Bombay Municipal Corporation Act, or in the City of Ahmedabad or the City of Poona the general tax levied under section 129 of the Bombay Provincial Municipal Corporations Act, 1949, or in any other area to which clause (*1*) of section 10A applies, a rate or tax on buildings, houses or lands or a rate or tax in the form of such rate or tax on buildings, houses or lands levied under any of the enactments referred to in the said clause (*1*) is increased after the 31st day of March 1949, a landlord, in respect of any premises situated in any of the said areas, and let on or before the said date shall be entitled, after the date of commencement of the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1953 (hereinafter in this section referred to as the appointed date), to make an increase in the rent of the said premises on account of the payment by him of such increase in the rate or tax; Bom. III of 1888. Bom. LIX of 1949. Bom. LXI of 1953.

(*b*) a landlord shall be entitled, after the appointed date, to make an increase in the rent of any premises situated in any of the said areas and let after the 31st day of March 1949 on account of the payment by him of any increase in such rate or tax;

(*c*) if a notification has been issued under clause (*3*) of section 10A in respect of any area, a landlord shall be entitled, after the appointed date, to make an increase in the rent of any premises situated in such area on account of the payment by him of an increase in the rate or tax imposed or levied by any local authority for its own purpose on buildings, houses or lands, after the date specified in such notification:

Provided that the increase referred to in clauses (*a*), (*b*) and (*c*) above shall not exceed—

(*i*) the difference between the amount of the increase paid by the landlord by way of rate or tax and the amount, if any, by which the Urban Immoveble Property tax is reduced after the 31st day of March 1949; or

(*ii*) five per cent. of the standard rent,

whichever is less.

(*2*) Any increase made under sub-section (*1*) shall not be deemed to be an increase for the purposes of section 7.]

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] This portion was added by Bom. 59 of 1949, s. 491, Appendix III.

[3] Section 10AA was inserted by Bom. 61 of 1953, s. 6.

Proportional recovery of riot tax after certain date permitted.

[1][10B.* (*1*) Notwithstanding anything contained in sections 10 and 10A, where under sub-section (*3*) of section 45 of the City of Bombay Police Act, 1902, the Municipal Commissioner is required to recover any amount of ocmpensation determined under sub-section (*1*) of the said section 45 in respect of any loss or damage caused to any property or in respect of death or grievous hurt caused to any person or persons at any time after the 25th day of September 1945 and an additional sum referred to in sub-section (*2*) of the said section 45 by an addition to the general tax, the landlord from whom such amount of compensation and additional sum, hereinafter called the amount of the riot tax, is recovered in respect of any premises shall be entitled to recover the same from the tenants of the premises, [2][liable to pay the same under sub-section (*3*)] subject to the following conditions, namely :—

Bom. IV of 1902.

(*i*) the amount of the riot tax shall be recoverable from the tenants in not less than four equal instalments ;

(*ii*) if the amount of the riot tax was recovered from the landlord before the date of coming into force of the Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Act, 1950, such amount shall be recoverable from the tenants within one year from such date ;

Bom. XVI of 1950.

(*iii*) if the amount of the riot tax is recovered from the landlord after the coming into force of the Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Act, 1950, such amount shall be recoverable from the tenants within one year from the date of the recovery of the riot tax from the landlord ;

Bom. XVI of 1950.

[3][(*iv*) the amount of the riot tax to be recovered from each tenant shall bear the same proportion as the rent payable by him in respect of premises bears to the total amount of rent recoverable for the whole premises it let.]

(*2*) The recovery of any amount made by the landlord from the tenant under this section shall not be deemed to be an increase for the purposes of section 7.

[4][(*3*) A tenant shall be liable to pay the amount of the riot tax if he is or was in occupation of the premises in respect of wnich the riot tax is payable by the landlord, on the date on which the riot took place or if the riot continued after that date during the greater part of the period of such riot. And a landlord of such premises shall be entitled to recover the amount of the riot tax from the tenant who is liable to pay the amount of riot tax under this section, notwithstanding that such tenant is not in occupation of the premises on the date on which such amount is recovered from the landlord by the Municipal Commissioner.

Explanation.—For the purposes of this sub-section, the date on which the riot took place or the period of the riot shall be the date or the period, as the case may be which the State Government may by notification in the *Official Gazette* specify in this behalf.

(*4*) If the amount of the riot tax has already been wholly or partly recovered by a landlord before the date of the coming into force of the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1950,—

Bom. LIII of 1950.

(*a*) from a tenant who is not liable to pay the same under sub-section (*3*) such tenant shall be entitled to the refund of the whole or part of the amount recovered from him by the landlord or to deduct the same from the amount of the rent due by him to the landlord in respect of the premises,

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[1] Section 10-B was inserted by Bom. 16 of 1950, s. 2.

*The amendments effected to section 10-B by Bom. 53 of 1950, s. 5, shall be deemed to have come into force with effect from *2-5-1950* (*vide* s. 9 of Bom. 53 of 1950).

[2] These words were inserted by Bom. 53 of 1950, s. 5 (*1*).

[3] Clause (*iv*) was substituted for the original clause (*iv*) and the Explanation, by Bom. 53 of 1950, s. 5(*1*).

[4] Sub-section (*3*) was added, *ibid.*, s. 5 (*2*).

(*b*) from a tenant who is liable to pay the same under sub-section (*3*) and if uch amount,—

(*i*) is greater than the amount which the landlord is entitled to recover from the tenant under sub-section (*3*) the tenant shall be entitled to the refund of or to deduct the excess amount from the rent or from the next instalment of the riot tax, if any, due to the landlord, or

(*ii*) is less than the amount which the landlord is entitled to recover from the tenant under sub-section (*3*), the landlord shall be entitled to recover the difference either by the addition to the rent or to the next instalment of the riot tax, if any, due from the tenant or in any other lawful manner.]

Increase in rent excepted.

[1][**10C.** (*1*) A landlord shall also be entitled to make an increase in the rent of premises referred to in column 1 which were let on or before the first day of September 1940 by an addition to the rent at the rates specified against them in column 2 below :—

1	2
(1) Residential premises the rent of which does not exceed Rs. 20 per month.	Not exceeding 5 per cent. of the standard rent.
(2) Residential premises the rent of which exceeds Rs. 20 per month but does not exceed Rs. 80 per month.	Not exceeding 7½ per cent. of the standard rent.
(3) Residential premises the rent of which exceeds Rs. 80 per month.	Not exceeding 10 per cent. of the standard rent.
(4) Non-residential premises other than those specified in items (5) and (6) below :—	
(*a*) the rent of which does not exceed Rs. 50 per month.	Not exceeding 7½ per cent. of the standard rent.
(*b*) the rent of which exceeds Rs. 50 per month.	Not exceeding 12½ per cent. of the standard rent.
[2][(5) Premises interest in which is transferred under the proviso to section 15 on or after the date of the coming into force of the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1953, as incidental to the sale of a business together with the stock-in-trade and goodwill thereof.]	Not exceeding 25 per cent. of the standard rent.
(6) Premises used for the purposes of a cinema.	Not exceeding 50 per cent. of the standard rent.

Bom. LXI of 1953.

(*2*) Any increase under sub-section (*1*) shall not be deemed to be an increase for the purposes of section 7.

(*3*) Nothing contained in sub-sections (*1*) and (*2*) shall apply to premises to which this Part has been applied in the areas of the merged territories of the former State of Baroda to which this Part has been extended.

Explanation.—For the purposes of sub-section (*1*), the expression "premises" shall have the same meaning as is assigned to it in sub-clause (*b*) of clause (*8*) of section 5.]

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[1] Sections 10C and 10D were inserted by Bom. 61 of 1953, s. 7.

[2] This clause was substituted for the original by Bom. 46 of 1954, s. 2.

[1][**10D.** (*1*) Subject to the provisions of sub-sections (*2*) and (*5*) and notwithstanding anything contained in section 9, a landlord shall further be entitled to make an increase in the rent of premises by an addition to the rent, in the manner prescribed, of an amount not exceeding five per cent. per annum of the expenses incurred on account of special or heavy repairs or special additions to premises or special alterations made therein or additional amenities provided for the premises or on account of improvements or structural alterations made under section 9 : Increase in rent on account of repairs excepted.

Provided that the increase permitted by this sub-section shall not, in respect of improvements or structural alterations, be in addition to the increase already made under section 9 and shall after the commencement of the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1953, be in substitution of the reasonable increase permitted under that section, notwithstanding anything contained therein.

Bom. LXI of 1953.

(*2*) Before making any increase under sub-section (*1*), the landlord shall obtain a certificate from the local authority that he was required by it to make or to provide such repairs, additions, alterations, improvements or amenities and has completed them in conformity with its requirements or shall obtain the consent in writing of the tenant or of majority of tenants occupying the premises in the building.

(*3*) Any increase under sub-section (*1*) shall not be deemed to be an increase for the purposes of section 7.

(*4*) If a landlord, when required by a local authority to execute the work of any such repairs, additions, improvements, alterations, or amenities, fails to do so, the tenant or the tenants interested in such work may seek the approval of the local authority for executing such work. The local authority shall grant the approval unless other measures are taken by it to execute the said work. While granting the approval, the local authority shall specify the nature of the work and the estimated cost thereof which shall for all purposes be binding on the landlord. Upon such approval being granted, the tenants shall be entitled to execute the said work and to deduct the amount of the expenses thereof from the rent which from time to time becomes due by them to the landlord or otherwise recover such amount from him :

Provided that where such work is jointly executed by the tenants the amount to be deducted or recovered by each tenant shall bear the same proportion as the rent payable by him in respect of his premises bears to the total amount of the expenses incurred for such work :

Provided further that the total amount so deducted or recoverable shall not exceed the estimated cost specified by the local authority.

(*5*) In respect of any work executed by the tenants under sub-section (*4*) the landlord shall not be entitled to make the increase permitted under sub-section (*1*).

Explanation.—For the purposes of this section, the expression "local authority" shall include the Municipal Commissioner.]

11. (*1*) In any of the following cases the Court may, upon an application made to it for that purpose, or in any suit or proceeding, fix the standard rent at such amount as, having regard, to the provisions of this Act and the circumstances of the case, the Court deems just— Court may fix standard rent and permitted increases in certain cases.

(*a*) where any premises are first let after the first day of September 1940, and the rent at which they are so let is in the opinion of the Court excessive ; or

[1] Section 10D was inserted by Bom. 61 of 1953, s. 7.

(*b*) where the Court is satisfied that there is no sufficient evidence to ascertain the rent at which the premises were let in any one of the cases mentioned sub-clauses (*i*) to (*iii*) of clause (*b*) of sub-section (*10*) of section 5 ; or

(*c*) where by reason of the premises having been let at one time as a whole or in parts and at another time in parts or as a whole, or for any other reasons, any difficulty arises in giving effect to this Part ; or

(*d*) where any premises have been or are let rent-fee or at a nominal rent or for some consideration in addition to rent ; or

(*e*) where there is any dispute between the landlord and the tenant regarding the amount of standard rent.

(*2*) If there is any dispute between the landlord and the tenant regarding the amount of permitted increases the Court may determine such amount.

(*3*) If an application for fixing the standard rent or for determining the permitted increases is made by a tenant who has received a notice from his landlord under sub-section (*2*) of section 12, the Court shall forthwith make an order specifying the amount of rent or permitted increases to be paid by the tenant pending the final decision of the application, and a copy of such order shall be served upon the landlord.

No ejectment ordinarily to be made if tenant pays or is ready and willing to pay standard rent and Permitted increases.

12. (*1*) A landlord shall not be entitled to the recovery of possession of any premises so long as the tenant pays, or is ready and willing to pay, the amount of the standard rent and permitted increases, if any, and observes and performs the other conditions of the tenancy, in so far as they are consistent with the provisions of this Act.

(*2*) No suit for recovery of possession shall be instituted by a landlord against a tenant on the ground of non-payment of the standard rent or permitted increases due, until the expiration of one month next after notice in writing of the demand of the standard rent or permitted increases has been served upon the tenant in the manner provided in section 106 of the Transfer of Property Act, 1882. IV of 1882.

[1][(*3*) (*a*) Where the rent is payable by the month and there is no dispute regarding the amount of standard rent or permitted increases, if such rent or increases are in arrears for a period of six months or more and the tenant neglects to make payment thereof until the expiration of the period of one month after notice referred to in sub-section (*2*), the Court may pass a decree for eviction in any such suit for recovery of possession.

(*b*) In any other case, no decree for eviction shall be passed in any such suit if, on the first day of hearing of the suit or on or before such other date as the Court may fix, the tenant pays or tenders in Court the standard rent and permitted increases then due and thereafter continues to pay or tender in Court regularly such rent and permitted increases till the suit is finally decided and also pays costs of the suit as directed by the Court.]

[2][(*4*) Pending the disposal of any such suit, the Court may out of any amount paid or tendered by the tenant pay to the landlord such amount towards payment of rent or permitted increases due to him as the Court thinks fit.]

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[1] This sub-section was substituted for the original by Bom. 61 of 1953, s.8 (*1*).
[2] Sub-section (*4*) was inserted, *ibid*, s. 8 (*2*).

Explanation.—In any case where there is a dispute as to the amount of standard rent or permitted increases recoverable under this Act the tenant shall be deemed to be ready and willing to pay such amount if, before the expiry of the period of one month after notice referred to in sub-section (*2*), he makes an application to the Court under sub-section (*3*) of section 11 and thereafter pays or tenders the amount of rent or permitted increases specified in the order made by the Court.

When landlord may recover possession.

13. (*1*) Notwithstanding anything contained in this Act [1][but subject to the provisions of section 15], a landlord shall be entitled to recover possession of any premises if the Court is satisfied—

IV of 1882. (*a*) that the tenant has committed any act contrary to the provisions of clause (*o*) of section 108 of the Transfer of Property Act, 1882 ; or

(*b*) that the tenant has, without the landlord's consent given in writing, erected on the premises any permanent structure ; or

(*c*) that the tenant or any person residing with the tenant has been guilty of conduct which is a nuisance or annoyance to the adjoining or neighbouring occupiers, or has been convicted of using the premises or allowing the premises to be used for immoral or illegal purposes ; or

(*d*) that the tenant has given notice to quit and in consequence of that notice the landlord has contracted to sell or let the premises or has taken any other steps, as a result of which he would, in the opinion of the Court, be seriously prejudiced if he could not obtain possession of the premises ; or

(*e*) that the tenant has, since the coming into operation of this Act, sub-let the whole or part of the premises or assigned or transferred in any other manner his interest therein ; or

(*f*) that the premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and that the tenant has ceased, whether before or after the coming into operation of this Act, to be in such service or employment ; or

(*g*) that the premises are reasonably and *bona fide* required by the landlord for occupation by himself or by any person for whose benefit the premises are held [2][or where the landlord is a trustee of a public charitable trust that the premises are required for occupation for the purposes of the trust] ; or

(*h*) that the premises are reasonably and *bona fide* required by the landlord for carrying out repairs which cannot be carried out without the premises being vacated ; or

[3][(*hh*) that the premises consist of not more than two floors and are reasonably and *bona fide* required by the landlord for the immediate purpose of demolishing them and such demolition is to be made for the purpose of erecting new building on the premises sought to be demolished ; or]

[4][(*hhh*) that the premises are required for the immediate purpose of demolition ordered by any local authority or other competent authority ; or]

(*i*) that where the premises are land, such land is reasonably and *bona fide* required by the landlord for the erection of a new[5]** building ; or

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[1] These words and figures were inserted by Bom. 3 of 1949, s. 3.
[2] These words were inserted by Bom. 61 of 1953, s. 9 (*1*) (*a*).
[3] Clause (*hh*) was inserted by Bom. 53 of 1950, s. 6 (*1*).
[4] This clause was inserted by Bom. 61 of 1953, s. 9 (*1*) (*b*).
[5] The word 'residential' was deleted, *ibid*, s. 9 (*1*) (*c*).

[1][(*ii*) that where the premises are land in the nature of garden or grounds appurtenant to a building or part of a building, such land is required by the landlord for the erection of a new residential building which a local authority has approved or permitted him to build thereon ;]

(*j*) that the rent charged by the tenant for the premises or any part thereof which are sub-let before the coming into operation of this Act is in excess of the standard rent and permitted increases in respect of such premises or part or that the tenant has received any fine, premium, other like sum or consideration in respect of such premises or part ; or

(*k*) that the premises have not been used without reasonable cause for the purpose for which they were let for a continuous period of six months immediately preceding the date of the suit ; or

(*l*) that the tenant after the coming into operation of this Act has built, acquired vacant possession of or been allotted a suitable residence.

(*2*) No decree for eviction shall be passed on the ground specified in clause (*g*) of sub-section (*1*) if the Court is satisfied that, having regard to all the circumstances of the case including the question whether other reasonable accommodation is available for the landlord or the tenant greater hardship would be caused by passing the decree than by refusing to pass it.

Whereas the Court is satisfied that no hardship would be caused either to the tenant or to the landlord by passing the decree in respect of a part of the premises, the Court shall pass the decree in respect of such part only.

Explanation.— For the purposes of clause (*g*) of sub-section (*1*)—

[2]* * * * * *

(*b*) the expression "landlord" shall not include a rent-farmer or rent-collector or estate-manager :

[3]* * * * * *

(*3*) The Court may pass the decree on the ground specified in clause (*h*) or (*i*) of sub-section (*1*) only in respect of a part of the premises which in its opinion it is necessary to vacate for carrying out the work of repairs or erection.

[4][(*3A*) No decree for eviction shall be passed on the ground specified in clause (*hh*) of sub-section (*1*), unless the landlord produces at the time of the institution of the suit a certificate granted by the Tribunal under sub-section (*3B*) and gives an undertaking—

(*a*) that the new building to be erected by him shall [5][,subject to the provisions of any rules, by-laws or regulations made by a local authority,] contain not less than [6][two] times the number of residential tenements, and not less than [6][two] times the floor area, contained in the premises sought to be demolished ;

(*b*) that the work of demolishing the premises shall be commenced by him not later than one month, and shall be completed not later than three months, from the date he recovers possession of the entire premises ; and

(*c*) that the work of erection of the new building shall be completed by him not later than fifteen months from the said date.

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[1] This clause was inserted by Bom. 61 of 1953, s. 9 (*1*) (*d*).
[2] Clause (*a*) was deleted by *ibid* s. 9 (*2*).
[3] The proviso was deleted, *ibid*.
[4] Sub-sections (*3-A*) and (*3B*) were inserted, by Bom. 53 of 1950, s. 6 (*3*).
[5] These words were inserted by Bom. 61 of 1953, s. 9 (*3*) (*i*).
[6] This word was substituted for the word "three", *ibid*, s. 9 (*3*) (*ii*).

(*3B*) (*a*) For the purposes of sub-section (*3A*), the State Government may from time to time constitute a Tribunal consisting of such persons and for such local area as it thinks fit.

(*b*) The Tribunal constituted under clause (*a*) may grant a certificate after being satisfied that—

(*i*) the plans and estimates for the new building have been properly prepared ;

[1]* * * * * * *

(*iii*) the necessary funds for the purpose of the erection of the new building are available with the landlord ; and

(*iv*) such other conditions as the State Government may by general or special order specify, have been satisfied.

(*c*) The proceedings before the Tribunal shall be in the manner as may be prescribed by rules made by the State Government in this behalf.]

(*4*) For the purposes of clause (*j*) of sub-section (*1*) the standard rent or permitted increases in respect of the part sub-let shall be the amounts bearing such proportion to the standard rent or permitted increases in respect of the premises as may be reasonable having regard to the extent of the part sub-let and other relevant considerations.

Sub-tenant to become tenant on determination of tenancy.

14. Where the interest of a tenant of any premises is determined for any reason, any sub-tenant to whom the premises or any part thereof have been lawfully sub-let before the coming into operation of this Act shall, subject to the provisions of this Act, be deemed to become the tenant of the landlord on the same terms and conditions as he would have held from the tenant if the tenancy had continued.

Tenant not to sub-let or transfer after this Act.

15. Notwithstanding anything contained in any law, it shall not be lawful after the coming into operation of this Act for any tenant to sub-let the whole or any part of the premises let to him or to assign or transfer in any other manner his interest therein :

[2][Provided that the [3][State] Government may, by notification in the *Official Gazette*, permit in any area the transfer of interest in premises held under such leases or class of leases and to such extent as may be specified in the notification.]

Recovery of possession for repairs and re-entry.

16. (*1*) The Court shall when passing a decree on the ground specified in clause (*h*) of sub-section (*1*) of section 13 ascertain from the tenant whether he elects to be placed in occupation of the premises or part thereof from which he is to be evicted and, if the tenant so elects, shall record the fact of the election in the decree and specify in the decree the date on or before which he shall deliver possession so as to enable the landlord to commence the work of repairs.

[4][(*2*) If the tenant delivers possession on or before the date specified in the decree the landlord shall, two months before the date on which the work of repairs is likely to be completed, give notice to the tenant of the date on which the said work shall be completed. Within fifteen days from the date of receipt of such notice, the tenant shall intimate to the landlord his acceptance of the

[1] Sub-clause (*ii*) was deleted, by Bom. 61 of 1953, s. 9 (*1*).
[2] This proviso was substituted for the original by Bom. 36 of 1948, s. 4.
[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[4] Sub-section (*2*) was substituted for the original by Bom. 61 of 1953, s. 10.

accommodation offered and deposit with the landlord rent for one month. If the tenant gives such intimation and makes the deposit, the landlord shall, on completion of the work of repairs, place the tenant in occupation of the premises or part thereof on the original terms and conditions. If the tenant fails to give such intimation and to make the deposit, the tenant's right to occupy the premises shall terminate].

(*3*) If, after the tenant has delivered possession on or before the date specified in the decree, the landlord fails to commence the work of repairs within one month of the specified date or fails to complete the work within a reasonable time or having completed the work fails to place the tenant in occupation of the premises in accordance with sub-section (*2*), the Court may, on the application of the tenant made within one year of the spec fied date, order the landlord to place him in occupation of the premises or part thereof on the original terms and conditions; and on such order being made the landlord and any person who may be in occupation shall give vacant possession to the tenant of the premises or part thereof.

(*4*) Any landlord who, when the tenant has vacated by the date specified in the decree, without reasonable excuse fails to commence the work of repairs and any landlord or other person in occupation of the premises who fails to comply with the order made by the Court under sub-section (*3*), shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Recovery of possession for occupation, etc., and re-entry.

17. (*1*) Where a decree for eviction has been passed by the Court on the ground spec fied in clause (*g*) or (*i*) of sub-section (*1*) of section 13 and the premises are not occupied or the work of erection is not commenced within a period of one month from the date the landlord recovers possession or the premises are re-let within one year of the said date to any person other than the orig nal tenant, the Court may, on the application of the original tenant made within thirteen months of such date order the landlord to place in occupation of the premises on the originan terms and conditions, and, on such order being made, the landlord and any person who may be in occupation of the premises shall give vacant possession to the original tenant.

(*2*) Any landlord who recovers possession on the ground specified in clause (*g*) or (*i*) of sub-section (*1*) of section 13 and keeps the premises unoccupied or does not commence the work of erection without reasonable excuse within the period of one month from the date he recovered possession and any landlord or other person in occupation of the premises who fails to comply with the order of the Court under sub-section (*1*) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Recovery of possession for demolishing building.

[1][**17A.** (*1*) Where a decree for eviction has been passed by the Court on the ground specified in clause (*hh*) of sub-section (*1*) of section 13 and the work of demolishing the premises has not been commenced by the landlord within the period specified in clause (*b*) of sub-section (*3A*) of the said section, the tenant may give the landlord a notice of his intention to occupy the premises from which he has been evicted and if the landlord does not forthwith deliver to him the vacant possession of the premises on the same terms and conditions on which he occupied them immediately before the eviction, the tenant may make an application to the Court within six weeks of the date on which he delivered vacant possession of the premises to the landlord.

[1] Section 17A, was inserted by Bom. 53 of 1950, s. 7.

(*2*) If the Court is satisfied that the landlord has not substantially commenced the work of demolishing the premises within the period of one month in accordance with his undertaking, the Court shall order the landlord to deliver to the tenant vacant possession of the premises on the terms and conditions on which he occupied them immediately before the eviction. On such order being made the landlord shall forthwith deliver vacant possession of the premises to the tenant. Such order shall be deemed to be an order within the meaning of clause (*14*) of section 2 of the Code of Civil Procedure, 1908. V of 1908.

(*3*) Any landlord who recovers possession on the ground specified in clause (*hh*) of sub-section (*1*) of section 13, and fails to carry out any undertaking referred to in clause (*a*), (*b*) or (*c*) of sub-section (*3A*) of the said section without any reasonable excuse or fails to comply with the order of the Court under sub-section (*1*) shall, without prejudice to his liability in execution of the order under sub-section (*2*), on conviction be punishable with imprisonment for a term which may extend to three months or with fine or with both.]

Tenant's right to give notice to landlord of his intention to occupy tenement in new building.

[1][**17B.** Where a decree for eviction has been passed by the Court on the ground specified in clause (*hh*) of sub-section (*1*) of section 13 and the work of demolishing the premises and of the erection of a new building has been commenced by the landlord, the tenant may, within six months from the date on which he delivered vacant possession of the premises to the landlord, give notice to the landlord of his intention to occupy a tenement in the new building on its completion on the following conditions, namely :—

(*a*) that he shall pay to the landlord the standard rent in respect of the tenement :

Provided that, in respect of a residential tenement, the tenant concerned shall not be required to pay rent in relation to the area at more than double the rate at which he paid rent for his former premises, immediately before his eviction under the decree [2][, unless the landlord obtains an order of the Court fixing the standard rent in respect of the tenement at a higher rate.]

(*b*) that his occupation of the tenement shall, save as provided in condition (*a*) above, be on the same terms and conditions as the terms and conditions on which he occupied the premises immediately before the eviction.]

Landlord to intimate to tenant date of completion and tenant's right to occupy tenement in new building.

[1][**17C.** (*1*) On receipt of notice from the tenant under section 17B, the landlord shall, not less than three months before the date on which the erection of the new building is likely to be completed, intimate to the tenant the date on which the said erection shall be completed. On the said date the tenant shall be entitled to occupy the tenement.

(*2*) (*a*) If the tenant fails to occupy the tenement within a period of one month from the date on which he is entitled to occupy it under sub-section (*1*), the tenant's right to occupy the said tenement under the said sub-section shall terminate and the landlord shall be entitled to recover from the tenant a sum equal to three times the amount of the monthly standard rent in respect of the tenement.

(*b*) If the landlord fails, without reasonable excuse, to comply with the provisions of sub-section (*1*) or to place the tenant in occupation of the tenement he shall, without prejudice to his liability to place the tenant in vacant possession of the tenement, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.]

[1] Sections 17B and 17C were inserted by Bom. 53 of 1950, s. 7.
[2] This portion was added by Bom. 61 of 1953, s. 11.

Unlawful charges by landlord.

18. (*1*) If any landlord either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of the landlord receives any fine, premium or other like sum or deposit or any consideration other than the standard rent or the permitted increases, in respect of the grant, renewal or continuance of a lease of any premises, or for giving his consent to the transfer of a lease by sub-lease or otherwise, such landlord or person shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine, premium or sum or deposit or the value of the consideration received by him, and further where the offence is committed by a landlord in respect of premises which were of his ownership on the date of the offence such premises shall be liable to confiscation.

(*2*) Where any fine, premium or other like sum or deposit or any consideration referred to in sub-section (*1*) is paid by any person, the amount or value thereof shall be recoverable by him from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may, if such person is a tenant, without prejudice to any other remedy for recovery, be deducted by him from any rent payable by him to such landlord.

(*3*) Nothing in this section shall apply to any payment made under any agreement entered into before the first day of September 1940 [1][or to any payment made by any person to a landlord by way of a loan, for the purpose of financing the erection of the whole or part of a residential building or a residential section of a building on the land held by him as an owner, a lessee or in any other capacity, entitling him to build on such land, under an agreement which shall be in writing and shall, notwithstanding anything contained in the Indian Registration Act, 1908, be registered. Such agreement shall *inter alia* include the following conditions, namely :— XVI of 1908.

(*i*) that the landlord is to let to such person the whole or part of the building when completed for the use of such person or any member of his family ;

(*ii*) that the rate of interest on such loan shall not be less than four per cent. per annum ;

(*iii*) that such loan shall be repayable by the landlord within a period of ten years from the date of the execution of the agreement or within a period of six months from the date of the termination of the tenancy by the landlord, whichever period expires earlier ;

(*iv*) that the amount of the loan shall be a charge on the entire building and the entire interest of the landlord in the land on which such building is erected :

Provided that if the loan has been advanced by more than one person, all such persons shall, notwithstanding anything contained in any law for the time being in force, be entitled to a charge on the entire building and the entire interest of the landlord in such land rateably according to the amount of the loan advanced by each of such persons ;

(*v*) that the landlord shall use the amount of the loan for the purpose of erecting the whole or part, as the case may be, of the residential building and for no other purpose ; and

[1] This portion was added by Bom. 42 of 1951, s. 2 (*1*).

(*vi*) (*a*) that the erection of the building shall be completed within a period of two years from the date of the execution of the agreement or if the agreements executed are more than one, from the date of the execution of the first of such agreements :

Provided that the said period of two years may be extended to a further period not exceeding one year with the sanction of the Collector ;

(*b*) that if the erection of the building is not completed within the period of two years or within the extended period specified in the proviso to clause (*a*), the loan shall be repayable forthwith to the person advancing the same with interest at the rate of four per cent. per annum.]

[1][(*4*) If any landlord who has received a loan under an agreement in accordance with the provisions of sub-section (*3*), contravenes, without any reasonable excuse any of the conditions specified in the said sub-section (*3*), such landlord shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.]

[2]*Explanation I*—For the purposes of sub-section (*1*)—

(*a*) [3][except as provided in sub-section (*3*)] receipt of rent in advance for more than three months in respect of premises let for the purpose of residence, or

(*b*) where any furniture or other article is sold by the landlord to the tenant either before or after the creation of tenancy of any premises, the excess of the price received over the reasonable price of the furniture or article,

shall be deemed to be a fine or premium or consideration.

[4][*Explanation II.*—For the purposes of sub-section (*3*), "member of the family" means in the case of an undivided Hindu family any member of such family and in the case of any other family the husband, wife, son, daughter, father, mother, brother, sister or any other relative of the person permanently residing and boarding with him.]

19. (*1*) [5][Save in cases provided for under the proviso to section 15,] it shall not be lawful for the tenant or any person acting or purporting to act on behalf of the tenant to claim or receive any sum or any consideration as a condition of the relinquishment [6][,transfer or assignment] of his tenancy of any premises. **Unlawful charges by tenant.**

(*2*) Any tenant or person who in contravention of the provisions of sub-section (*1*) receives any sum or consideration shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the sum or the value of the consideration received by him.

20. Any amount paid on account of rent after the date of the coming into operation of this Act shall, except in so far as payment thereof is in accordance with the provisions of this Act, be recoverable by the tenant from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may, without prejudice to any other remedy for recovery, be deducted by such tenant from any rent payable by him to such landlord. **Recovery of amounts paid not in accordance with Act.**

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[1] This sub-section was inserted, by Bom. 42 of 1951, s. 2 (*2*).
[2] This explanation was numbered as Explanation I, *ibid*, s. 2 (*1*).
[3] This portion was inserted, *ibid*, s. 2 (*3*).
[4] This Explanation was added, *ibid*, s. 2 (*4*).
[5] These words and figures were inserted by Bom. 61 of 1953, s. 12 (*1*).
[6] These words were inserted, *ibid*, s. 12 (*2*).

Landlord to furnish particulars of rent, etc., to tenant.

21. (*1*) Every landlord shall, upon a notice served upon him by the tenant by post or in any other manner, furnish to such tenant within one month of the receipt of such notice a statement giving full particulars of the amount of standard rent of the premises or part thereof let to such tenant and of the permitted increases.

(*2*) Any landlord who fails to furnish such statement or any landlord or his agent who intentionally furnishes a statement which is false in any material particular [1][shall, on conviction, be punished] with fine which may extend to one thousand rupees.

Particulars to be furnished by tenant of tenancy sub-let or transferred before this Act.

22. (*1*) Every tenant who, before the date of the coming into operation of this Act, has, without the consent of the landlord given in writing, sub-let the whole or any part of the premises let to him or assigned or transferred in any other manner his interest therein, and every sub-tenant to whom the premises are so sub-let or the assignement or transfer is so made shall furnish to the landlord, within a month of the receipt of a notice served upon him by the landlord by post or in any other manner a statement in writing signed by him giving full particulars of such sub-letting, assignment or transfer including the rent charged or paid by him.

(*2*) Any tenant or sub-tenant who fails to furnish such statement or intentionally furnishes a statement which is false in any material particular [2][shall, on conviction, be punished] with fine which may extend to one thousand rupees.

Landlord's duty to keep premises in good repair.

23. (*1*) Notwithstanding anything contained in any law for the time being in force and in the absence of an agreement to the contrary by the tenant, every landlord shall be bound to keep the premises in good and tenantable repair.

[3][(*2*) If the landlord neglects to make any repairs, which he is bound to make under sub-section (*1*), within a reasonable time after a notice is served upon him by post or in any other manner by a tenant or jointly by tenants interested in such repairs, such tenant or tenants may themselves make the same and deduct the expenses of such repairs from the rent or otherwise recover them from the landlord ;

Provided that where the repairs are jointly made by the tenants the amount to be deducted or recovered by each tenant shall bear the same proportion as the rent payable by him in respect of his premises bears to the total amount of the expenses incurred for such repairs :

Provided further that the amount so deducted or recoverable in any year shall not exceed one-sixth of the rent payable by the tenant for that year.

(*3*) For the purpose of calculating the expenses of the repairs made under sub-section (*2*), the accounts together with the vouchers maintained by the tenants shall be conclusive evidence of such expenditure and shall be binding on the landlord.]

Landlord not to cut off or withhold essential supply or service.

24. (*1*) No landlord either himself or through any person acting or purporting to act on his behalf shall without just or sufficient cause cut off or withhold any essential supply or service enjoyed by the tenant in respect of the premises let to him.

(*2*) A tenant in occupation of the premises may, if the landlord has contravened the provisions of sub-section (*1*), make an application to the Court for a direction to restore such supply or service.

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[1] These words were substituted for the words "shall be punishable", by Bom. 61 of 1953, s. 13.
[2] These words were substituted for the words "shall be punishable", *ibid*, s. 14.
[3] This portion was substituted for the original sub-section (*2*) *ibid*, s. 15.

(*3*) If the Court on inquiry finds that the tenant has been in enjoyment of the essential supply or service and that it was cut off or withheld by the landlord without just or sufficient cause, the Court shall make an order directing the landlord to restore such supply or service before a date to be specified in the order. Any landlord who fails to restore the supply or service before the date so specified shall for each day during which the default continues thereafter be liable [1][upon a further direction by the Court to that effect] to fine which may extend to one hundred rupees.

(*4*) Any landlord, who contravenes the provisions of sub-section (*1*) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Explanation [2][*I*].—In this section essential supply or service includes supply of water, electricity, lights in passages and on stair-cases, lifts and conservancy or santitary service.

[3][*Explanation II*.—For the purposes of this section, withholding any essential supply or service shall include acts or omissions attributable to the landlord on account of which the essential supply or service is cut off by the local authority or any other competent authority.]

Conversion of residential into non-residential premises prohibited.

25. (*1*) A landlord shall not use or permit to be used for a non-residential purpose any premises which on the date of the coming into operation of this Act were used for a residential purpose.

(*2*) Any landlord who contravenes the provisions of sub-section (*1*) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Giving receipt for [5][any amount received] compulsory.

26. (*1*) Every landlord shall give a written receipt for any amount [4][at the time when such amount is] received by him in respect of any premises in such form and in such manner as may be prescribed.

(*2*) Any landlord or person who fails to give a written receipt for any amount received by him in respect of any premises shall, on conviction, be punishable with fine which may extend to one hundred rupees.

Recovery of rent according to British calendar.

27. (*1*) Notwithstanding anything contained in any law for the time being in force or any contract, custom or local usage to the contrary, rent payable by the month or year or portion of a year shall be recovered according to the British calendar.

(*2*) The [6][State] Government may prescribe the manner in which rent recoverable according to any other calendar before the coming into operation of this Act shall be calculated and charged in terms of the British Calendar.

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[1] These words were inserted by Bom. 61 of 1953, s. 16 (*1*).
[2] This Explanation was numbered as Explanation I, *ibid*, s. 16 (*2*).
[3] Explanation II was added, *ibid*, s. 16 (*2*).
[4] These words were inserted by Bom. 53 of 1949, s. 3, Second Schedule.
[5] These words were substituted for the word "rent", *ibid*.
[6] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Jurisdiction of courts.

28. [1][(*1*) Notwithstanding anything contained in any law and notwithstanding that by reason of the amount of the claim or for any other reason, the suit or proceeding would not, but for this provision, be within its jurisdiction,

(*a*) in Greater Bombay, the Court of Small Causes, Bombay, [2]*

[3][(*aa*) in any area for which, a Court of Small Causes is established under the Provincial Small Cause Courts Act, 1887, such Court and] IX of 1887.

(*b*) elsewhere, the Court of the Civil Judge (Junior Division) having jurisdiction in the area in which the premises are situate or, if there is no such Civil Judge, the Court of the Civil Judge (Senior Division) having ordinary jurisdiction,

shall have jurisdiction to entertain and try any suit or proceeding between a landlord and a tenant relating to the recovery of rent or possession of any premises to which any of the provisions of this Part apply and to decide any application made under this Act and to deal with any claim or question arising out of this Act or any of its provisions and [4][subject to the provisions of sub-section (*2*),] no other court shall have jurisdiction to entertain any such suit, proceeding or application or to deal with such claim or question.

[5][(*2*) (*a*) Notwithstanding anything contained in clause (*aa*) of sub-section (*1*), the District Court may at any stage withdraw any such suit, proceeding or application pending in a Court of Small Causes established for any area under the Provincial Small Cause Courts Act, 1887, and transfer the same for trial or disposal to the Court of the Civil Judge (Senior Division) having ordinary jurisdiction in such area. IX of 1887.

(*b*) Where any suit, proceeding or application has been withdrawn under clause (*a*), the Court of the Civil Judge (Senior Division) which thereafter tries such suit, proceeding or application, as the case may be, may either re-try it or proceed from the stage at which it was withdrawn.

(*c*) The Court of the Civil Judge trying any suit, proceeding or application withdrawn under clause (*a*) from the Court of Small Causes shall, for purposes of such suit, proceeding or application, as the case may be, be deemed to be the Court of Small Causes.]

Explanation.—In this section "proceeding" does not include an execution proceeding arising out of a decree passed before the coming into operation of this Act.

Appeal.

29. (*1*) Notwithstanding anything contained in any law, an appeal shall lie—

(*a*) in Greater Bombay, from a decree or order made by the Court of Small Causes, Bombay, exercising jurisdiction under section 28, to a bench of two judges of the said Court which shall not include the Judge who made such decree or order;

(*b*) elsewhere, from a decree or order made by [6][a Judge of the Court of Small Causes established under the Provincial Small Cause Courts Act, 1887, [7][or by the Court of the Civil Judge deemed to be the Court of Small Causes under clause (*c*) of sub-section (*2*) of section 28] or by] a Civil Judge exercising such jurisdiction, to the District Court. IX of 1887.

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[1] Section 28 except the explanation to the said section was renumbered as sub-section (*1*) of that section by Bom. 15 of 1952, s. 2 (*1*).

[2] The word "and" was deleted by Bom. 58 of 1949, s. 4 (*1*).

[3] This clause was inserted, *ibid*, s. 4 (*2*).

[4] This portion was inserted by Bom. 15 of 1952, s. 2 (*2*).

[5] Sub-section (*2*) was inserted, *ibid*, s. 2 (*3*).

[6] These words and figures were inserted by Bom. 58 of 1949, s. 5.

[7] This portion was inserted by Bom. 15 of 1952, s. 3.

[1][Provided that no such appeal shall lie from—

V of 1908. (I) a decree or order made in any suit or proceeding in respect of which no appeal lies under the Code of Civil Procedure, 1908 ;

(II) a decree or order made in any suit or proceeding (other than a suit or proceeding relating to possession) in which the plaintiff seeks to recover rent and the amount or value of the subject matter of which does not exceed—

(*i*) where such suit or proceeding is instituted in Greater Bombay, Rs. 3,000 and

(*ii*) where such suit or proceeding is instituted elsewhere, the amount up to which the Judge or Court specified in clause (*b*) is invested with jurisdiction of a Court of Small Causes, under any law for the time being in force ;

(III) an order made upon an application for fixing the standard rent or for determining the permitted increases in respect of any premises except in a suit or proceeding in which an appeal lies ;

(IV) an order made upon an application by a tenant for a direction to restore any essential supply or service in respect of the premises let to him.]

[2][(*1A*) Every appeal under sub-section (*1*) shall be made within thirty days from the date of the decree or order, as the case may be :

Provided that in computing the period of limitation prescribed by this sub-section IX of 1908. the provisions contained in sections 4, 5 and 12 of the Indian Limitation Act, 1908, shall, so far as may be, apply.]

(*2*) No further appeal shall lie against any decision in appeal under sub-section (*1*).

[3][(*3*) Where no appeal lies under this section from a decree or order in any suit or proceeding in Greater Bombay the bench of two judges specified in clause (*a*) of sub-section (*1*) and elsewhere the District Court, may for the purpose of satisfying itself that the decree or order made was according to law, call for the case in which such decree or order was made and pass such order with respect thereto as it thinks fit.]

[4][**29A.** Nothing contained in section 28 or 29 shall be deemed to bar a party to a suit, proceeding or appeal mentioned therein in which a question of title to premises arises and is determined, from suing in a competent court to establish his title to such premises.] Saving of suits involving title.

30. If the court finds that any suit, proceeding or application instituted or made before it is not instituted, or made *bona fide* or is false, frivolous or vexatious, the court may, after hearing the plaintiff or applicant and for reasons to be recorded, order that compensation, not exceeding one thousand rupees, be paid by such plaintiff or applicant to the defendant or opponent, as the case may be. Compensation in respect of proceedings which are not *bona fide* or are false, frivolous or vexatious.

31. The courts specified in sections 28 and 29 shall allow the prescribed procedure in trying and hearing suits, proceedings, applications and appeals and in executing orders made by them. Procedure of courts.

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[1] This proviso was added by Bom. 61 of 1953, s. 17 (*1*).

[2] This sub-section was inserted by Bom. 36 of 1948, s. 5. This amendment shall not apply to appeals from decrees or orders made before the coming into operation of the said Act, *vide* s. 8.

[3] This sub-section was inserted by Bom. 61 of 1953, s. 17 (*2*).

[4] This section was inserted by Bom. 36 of 1948, s. 6.

PART III.

Hotels and Lodging Houses.

Appointment of Controller.

32. The [1][State] Government may by notification in the *Official Gazette* appoint any person to be a Controller for any area for the purposes of this Part.

Fixation of fair rates, [4][percentage of accommodation] and number of lodgers.

33. (*1*) The Controller may fix a fair rate to be charged for board, lodging or other service provided in a hotel or lodging house at such amount as having regard to the circumstances of the case, he deems just. [2][The Controller may also fix the percentage of accommodation of daily and monthly lodgers respectively, in a hotel or lodging house.]

(*2*) The Controller may fix a fair rate separately for—

(*i*) lodging with reference to the nature of the accommodation and the number of lodgers to be accommodated ;

(*ii*) board, partial or full ;

(*iii*) other service.

(*3*) The Controller may fix fair rates separately for daily and monthly lodgers.

(*4*) The Controller shall also fix the number of lodgers to be accommodated in each room or specified accommodation in the hotel or lodging house.

[3][*Explanation.*—For the purposes of this Part, a lodger who agrees to reserve accommodation in a hotel or lodging house for a period of less than a month shall be deemed to be a daily lodger.]

Revision of fair rates, [5][percentage of accommodation] and number of lodgers.

34. The Controller may, from time to time, revise the fair rates [5][the percentage of accommodation] or the number of lodgers fixed under section 33.

Continuance of fair rates before coming into operation of this Part.

35. Fair rates fixed under the Bombay Hotels and Lodging Houses Control Order, 1942, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, and which were in force immediately before the coming into operation of this Part shall be deemed to have been fixed under this Part, and the provisions of this Part shall apply in respect of such rates. Bom. VII of 1944.

Notice of fair rate, [6][percentage of accommodation] and number of lodgers to be displayed.

36. Where under section 33 or section 34 the Controller has fixed or revised the fair rate, [6][the percentage of accommodation] or the number of lodgers he shall direct the manager of the hotel or the owner of the lodging house, as the case may be, to display a notice of the fair rate, [6][percentage of accommodation], the number of lodgers and all the provisions of this Act relating thereto in a conspicuous manner in the hotel or lodging house and also in the room or accommodation in respect of which the fair rate and the number of lodgers are fixed or revised.

Charges not recoverable in excess of fair rate.

37. (*1*) Notwithstanding any agreement to the contrary, no manager of a hotel or owner of a lodging house shall charge any amount in excess of the fair rate.

(*2*) When the Controller has fixed the fair rate any agreement for the payment of any charges in excess of such fair rate shall be void in respect of such excess and shall be construed as if it were an agreement for payment or the said fair rate.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This portion was added by Bom. 3 of 1949, s. 4(*1*).
[3] This Explanation was inserted, *ibid*, s. 4 (*2*).
[4] These words were inserted, *ibid*, s. 4 (*3*).
[5] These words were inserted, *ibid*, s. 5.
[6] These words were inserted, *ibid*, s. 6.

(*3*) Any sum paid by a lodger in excess of the fair rate shall be recoverable by him at any time within a period of six months from the date of payment from the manager of the hotel or the owner of the lodging house or his legal representative, and may, without prejudice to any other remedy for recovery, be deducted by such lodger from any amount payable by him to such manager or owner.

No ejectment ordinarily to be made if fair rate paid.

38. No manager of a hotel or owner of a lodging house shall evict or refuse board or other service to a lodger so long as he pays, or is ready and willing to pay, the fair rate and observes and performs the other conditions of his agreement in so far as they are consistent with the provisions of this Act:

[1][Provided that where under section 33 or section 34 the Controller has fixed or revised the percentage of accommodation for daily and monthly lodgers respectively, the manager of a hotel or owner of a lodging house may refuse accommodation to any daily or monthly lodger, as the case may be, if the accommodation in respect of such class of lodgers is fully occupied.]

When manager of a hotel or owner of lodging house may recover possession.

39. Notwithstanding anything contained in this Act, a manager of a hotel or owner of a lodging house shall be entitled to recover possession of the accommodation provided by him on obtaining a certificate from the Controller certifying that—

(*a*) the lodger has been guilty of conduct which is a nuisance or an annoyance to any adjoining or neighbouring lodger; [2]*

(*b*) the accommodation is reasonably and *bona fide* required by the owner of the hotel or lodging house, as the case may be, either for his own occupation or for the occupation of any person for whose benefit the accommodation is held, or for any other cause which may be deemed satisfactory by the Controller; [3]*

[4][(*bb*) the lodger is habitually irregular in making payment of the charges for board, lodging or other service provided in the hotel or lodging house:]

[5][(*c*) the lodger has failed to vacate the accommodation on the termination of the period of the agreement in respect thereof:

Provided that before issuing a certificate under this clause the Controller shall take into consideration the vacancies, if any, in the accommodation for daily and monthly lodgers the percentage of which has been fixed or revised under section 33 or section 34 and the circumstances under which the lodger did not vacate on the termination of the period of the agreement:] [6][or]

[7][(*d*) the lodger has done any act which is inconsistent with the purpose for which the accommodation is provided to him or which is likely to affect adversely and substantially the owner's interest therein.]

Penalties.

40. (*1*) If any manager of a hotel or owner of a lodging house either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of a manager of a hotel or owner of a lodging house receives any fine, premium or other like sum or deposit or any consideration other than the fair rate, in respect of the grant or continuance of accommodation in the hotel or lodging house, such manager, owner or person shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine, premium or sum or deposit or the value of the consideration received by him.

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[1] This proviso was added by Bom. 3 of 1949, s. 7.
[2] The word "or" was deleted, *ibid*, s. 8.
[3] The word "or" was deleted by Bom. 58 of 1949, s. 6 (*1*).
[4] This clause was inserted by Bom. 61 of 1953, s. 18.
[5] This clause was added by Bom. 3 of 1949, s. 8.
[6] The word "or" was added by Bom. 58 of 1949, s. 6 (*2*).
[7] Clause (*d*) was added, *ibid*, s. 6 (*3*).

(*2*) Any manager of a hotel or owner of a lodging house who charges any amount in excess of the fair rate in contravention of section 37 shall, on conviction, be punishable with imprisonment which may extend to three months, or with fine, or with both.

(*3*) Any manager of a hotel or owner of a lodging house who accommodates lodgers or permits lodgers to be accommodated in a room or specified accommodation in excess of the number fixed by the Controller shall, on conviction, be punishable with fine which may extend to one thousand rupees.

(*4*) Any manager of a hotel or owner of a lodging house who fails to display a notice in contravention of the Controller's direction under section 36 shall, on conviction, be punishable with fine which may extend to five hundred rupees.

[1][*Explanation.*—For the purposes of sub-section (*1*), receipt of charges in advance for more than one month shall be deemed to be a fine or premium or consideration.]

Provisions relating to inquiries by Controller.

41. (*1*) No order under this Act shall be made by the Controller except after holding an inquiry.

(*2*) Every such inquiry shall be made summarily in the prescribed manner.

(*3*) For the purposes of holding an inquiry under sub-section (*1*) the Controller shall have the same powers as are vested in Civil Courts in respect of—

(*a*) proof of facts by affidavits,

(*b*) summoning and enforcing the attendance of any person and examining him on oath,

(*c*) compelling the production of documents, and

(*d*) issuing commissions for the examination of witnesses.

(*4*) The Controller may himself, enter or authorize any person subordinate to him to enter upon any premises, hotel or lodging house or any part thereof to which the inquiry relates.

Appeal.

42. An appeal shall lie to the [2][State] Government from an order passed by the Controller under the provisions of this Part (including an order granting or refusing a certificate under section 39) within fifteen days from the date of communication of the order and the [2][State] Government may pass such order as it deems fit.

Procedure of Courts in suits.

43. [3][(*1*)] The provisions contained in sections 28, 29, 30 and 31 shall, [4][subject to the provisions of sub-section (*2*),] apply to suits by a manager of a hotel or an owner of a lodging house against a lodger for recovery of charges for, or possession of, the accommodation provided in the hotel or lodging house.

[5][(*2*) Pending the final decision of the suit for recovery of charges for the accommodation provided in a hotel or lodging house, the manager of the hotel or the owner of the lodging house may make an application to the Court requiring the lodger to deposit in Court the amount of such charges. On such application, the Court shall forthwith make an order directing the lodger to deposit in Court such amount of charges within such period as it thinks fit and shall serve [6][the order upon the lodger and a copy thereof upon the manager] of the hotel or the owner of the lodging house. If the lodger fails to deposit such amount within the period specified in the order the Court may at any time thereafter pass an order for the eviction of the lodger.]

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[1] This Explanation was added by Bom. 36 of 1948, s. 7.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This section was renumbered as 43 (*1*) by Bom. 3 of 1949, s. 9 (*1*).

[4] This portion was inserted, *ibid.*

[5] This sub-section was inserted, *ibid.*, s. 9(*2*).

[6] These words were substituted for the words "a copy of such order upon the manager" by Bom. 61 of 1953, s. 19.

Controller to be deemed public servant.

44. A Controller appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

All proceedings before a Controller to be judicial proceedings.

45. All proceedings before a Controller shall be deemed to be judicial proceedings for the purposes of sections 193 and 228 of the Indian Penal Code. XLV of 1860.

Protection of action taken under this Act.

46. No suit, prosecution or other legal proceeding shall lie against a Controller in respect of anything in good faith done or intended to be done under this Act.

PART IV.

Miscellaneous.

Certain offences to be cognizable

47. (*1*) Offences under sections 16, 17, [1][17A, 17C,] 18, 19, sub-section (*4*) of section 24, section 25 and sub-sections (*1*) and (*2*) of section 40 shall be cognizable and shall not be triable by any Court inferior to that of a Presidency Magistrate or a Magistrate of the First Class.

(*2*) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Magistrate trying offences under this Act to pass sentences of fine or to award any punishment under this Act in excess of his powers. V of 1898.

Offence by companies, etc.

48. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), or a firm, every director, manager, secretary, agent or other officer or person concerned with the management thereof, and every partner of the firm shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Rules.

49. (*1*) The [2][State] Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for—

[3][(*ai*) the manner in which addition to the rent shall be made under sub-section (*1*) of section 10D ;]

(*i*) the form and the manner in which a receipt is to be given under sub-section (*1*) of section 26 ;

(*ii*) the manner in which rent recoverable according to any calendar other than the British calendar before the coming into operation of this Act shall be calculated and charged in terms of the British calendar under sub-section (*2*) of section 27 ;

(*iii*) the procedure to be followed in trying or hearing suits, proceedings (including proceedings for execution of decrees and distress warrants), applications, appeals and execution of orders ;

(*iv*) the manner in which inquiries shall be made summarily under sub-section (*2*) of section 41 ;

(*v*) levy of court fees in suits, proceedings and applications instituted before a Court or Controller.

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[1] These figures and letters were inserted by Bom. 53 of 1950, s. 8.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] This clause was inserted by Bom. 31 of 1953, s. 20.

Repeal.

†**50.** The Bombay Rent Restriction Act, 1939, and the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, are hereby repealed : Bom. XVI of 1939. Bom. VII of 1944.

Provided that all suits and proceedings [1]* * between a landlord and a tenant relating to the recovery or fixing of rent or possession of any premises to which the provisions of Part II apply and all suits and proceedings by a manager of a hotel or an owner of a lodging house against a lodger for the recovery of charges for, or possession of, the accommodation provided in a hotel or lodging house situate in an area to which Part III applies, which are pending in any Court, shall be transferred to and continued before the Courts which would have jurisdiction to try such suits or proceedings under this Act [2][or shall be continued in such Courts, as the case may be,], and [3]* all the provisions of this Act and the rules made thereunder shall apply to all such suits and proceedings.

[4][Nothing in this proviso shall apply to execution proceedings and appeals arising out of decrees or orders passed before the coming into operation of this Act and such execution proceedings and appeals shall be decided and disposed of as if this Act had not been passed :]

Provided further that—

(*a*) every order passed or act done by the Controllers under Part IV of the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, and every order or act deemed to have been passed or done under that Part shall be deemed to have been passed or done under this Act ; and Bom. VII 1944.

(*b*) all proceedings pending before the Controllers under Part IV of that Act shall be transferred to and continued before the Controllers appointed under this Act as if they were proceedings instituted before the Controllers under this Act.

Removal of doubt as regards proceedings under Chapter VII of Presidency Small Cause Courts Act, 1882.

[5]**51.** For the removal of doubt, it is hereby declared that, unless there is anything repugnant in the subject or context, references to suits or proceedings in this Act shall include references to proceedings under Chapter VII of the Presidency Small Cause Courts Act, 1882, and references to decrees in this Act shall include references to final orders in such proceedings.] XV of 1882.

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† Section 13 of Bom. 3 of 1949 reads as under :—

13. *Sections 10 and 11 to have retrospective effect.*—The amendments made by sections 10 and 11 of this Act shall be deemed to have been made and come into force on the date on which the said Act came into force and shall always be deemed to have been made and in force from such date :

Provided that the validity of any decree or order passed in any suit or proceeding referred to in section 50 of the said Act between the 13th day of February 1948 and the 3rd day of February 1949 shall not be questioned only on the ground that such suit or proceeding should have been decided and disposed of in accordance with the provisions of the said Act and not in accordance with the provisions of any of the enactments repealed by the said Act or *vice versa* and any execution proceedings or appeals arising out of such decree or order shall be decided and disposed of in accordance with the provisions of the said Act or the enactments repealed in accordance with which, as the case may be, such decree or order was passed.

[1] The words " (other than execution proceedings and appeals) " were deleted by Bom. 3 of 1949, s. 10.

[2] These words were inserted, *ibid.*

[3] The word " thereupon " was deleted, *ibid.*

[4] This portion was inserted, *ibid.*

[5] This section was added, *ibid.*, s. 11.

SCHEDULE I.

[*See* section 2 (*2*).]

(*i*) The City of Bombay.

(*ii*) The Bombay Suburban District.

(*iii*) The Thana District.

(*iv*) The Nasik District.

(*v*) (*a*) *Ahmedabad District*—

(1) Ahmedabad Municipal Borough.
(2) Ahmedabad Cantonment.
(3) Kochrab Village.
(4) Paldi Village.
(5) Madalpur Village.
(6) Changispur Village.
(7) Shekhpur-Khanpur Village.
(8) Vasna-Maktampur Village.
(9) Vadaj Village.
(10) Usmanpur Village.
(11) Ranip Village.
(12) Survey Nos. 149, 150 and 151 of Memnagar Village.
(13) Baherampur Village.
(14) Ranip-Hirpur Village.
(15) Dani Limda Village.
(16) Gomtipur Village.
(17) Kokhra-Mahmedabad Village.
(18) Amraivali Village.
(19) Rakhial Village.
(20) Saraspur Village.
(21) Asarva Village.
(22) Revenue Survey Nos. 1077 to 1140 of Naroda Village.
(23) Sahijpur-Bogha Village.
(24) Dariapur-Kajipur Village.
(25) Hansol Village.
(26) Acher Village.

(*b*) *Kaira District*—

(1) Anand Municipal District.
(2) Borsad Municipal District.
(3) Mehmedabad Municipal District.
(4) Kapadwanj Municipal District.
(5) Umreth Municipal District.
(6) Dakore Municipal District.
(7) Kaira Municipal District.
(8) Nadiad Municipal Borough.
(9) Matar Village.
(10) Thasra Village

(*c*) *Broach District*—

(1) Broach Municipal Borough.
(2) Ankleshwar Municipal District.
(3) Jambusar Municipal District.

(*d*) *Panch Mahals District*—

(1) Dohad Municipal District.
(2) Godhra Municipal Borough.
(3) Jhalod Village.
(4) Halol Village.
(5) Kalol Village.
(6) Derol Village.
(7) Vejalpore Village.

(*e*) *Surat District*—

(1) Surat Municipal Borough.
(2) Bulsar Municipal District.
(3) Rander Municipal District.
(4) Jalalpore Village.
(5) Mandvi Village.
(6) Pardi Village.

(*f*) *Ahmednagar District*—

(1) Ahmednagar Municipal Borough.
(2) Ahmednagar Cantonment.
(3) Sangamner Municipal District.
(4) Kopargaon Municipal District.
(5) Shrirampur Municipal District.
(6) Akola Village.
(7) Rahuri Budruk Village.
(8) Newasa Budruk Village.
(9) Shevgaon Village.
(10) Shrigonda Village.
(11) Pathardi Village.
(12) Karjat Village.
(13) Jamkhed Village.
(14) Parner Village.
(15) Belapur Budruk Village.
(16) Newasa Khurd Village.
(17) The Revenue Village of Rahuri Khurd.
(18) The Revenue Village of Belapur Khurd.

SCHEDULE I—*contd.*

(*g*) *East Khandesh District*—

(1) Jalgaon Municipal Borough.
(2) Bhusaval Municipal Borough.
(3) Amalner Municipal Borough.
(4) Chalisgaon Municipal Borough.
(5) Pachora Municipal District.
(6) Chopda Municipal District.
(7) Yawal Municipal District.
(8) Raver Municipal District.
(9) Savda Municipal District.
(10) Faizpur Municipal District.

(*h*) *West Khandesh District*—

(1) Nandurbar Municipal District.
(2) Dhulia Municipal Borough.

(*i*) *Poona District*—

(1) Lonavla Municipal Borough.
(2) Poona City Municipal Borough.
(3) Poona Suburban Municipal Borough.
(4) Poona Cantonment.
(5) Aundh Road area which is under the jurisdiction of the Bapodi Gram Panchayat near Kirkee.
(6) The Village of Dapodi, Haveli Taluka.
(7) Baramati Municipal District.

(*j*) *Satara District*—

(1) Satara City Municipal Borough.
(2) Satara Suburban Municipal District.
(3) Karad Municipal Borough.
(4) Wai Municipal District.
(5) Panchgani Municipal District.
(6) Mahableshwar Municipal District.
(7) Tasgaon Municipal District.

(*k*) *Sholapur District*—

(1) Sholapur Municipal Borough.
(2) Barsi Municipal Borough.
(3) Pandharpur Municipal Borough.
(4) Karmala Municipal District.

(*k*) *Sholapur District*—contd.

(5) Sangola Municipal District.
(6) Madha Village.
(7) Mahol Village.
(8) Malsiras Village.
(9) Kurduwadi Village.
(10) Tembhurni Village.
(11) Akluj Village.
(12) Vairage Village.

(*l*) *Belgaum District*—

(1) Belgaum Municipal Borough.
(2) Belgaum Cantonment.
(3) Nipani Municipal Borough.
(4) Athni Municipal District.
(5) Gokak Municipal District.
(6) Saundatti-Yellama Municipal District.
(7) Bailhongal Municipal District.

(*m*) *Bijapur District*—

(1) Bijapur Municipal Borough.
(2) Bagalkot Municipal District.

(*n*) *Dharwar District*—

(1) Dharwar Municipal Borough.
(2) Hubli Municipal Borough.
(3) Gadag-Betgeri Municipal Borough.
(4) Haveri Municipal District.
(5) Ranebennur Municipal District.
(6) Navalgund Municipal District.
(7) Nargund Municipal District.
(8) Byadgi Municipal District.
(9) Gudguddapur Municipal District.
(10) Kalaghatgi-Bendigri Village.
(11) Karajgi-Chikmagdur Village.
(12) Hangal Village.
(13) Ron Village.
(14) Mundargi Village.
(15) The Revenue Village of Bankapur.
(16) The Revenue Village of Kod.
(17) Gajendragad Village.
(18) Annigeri Village.
(19) Hirekerur Village.
(20) Shiggaon Village.

SCHEDULE I—*concld.*

(*o*) *Kanara District*—

(1) Karwar Municipal District.
(2) Kumta Municipal District.
(3) Gokarn Municipal District.
(4) Bhatkal Municipal District.
(5) Sirsi Municipal District.
(6) Ankola Panchayat Group.
(7) Siddapur Panchayat Group.

(*p*) *Kolaba District*—

(1) Alibag Municipal District.
(2) Mahad Municipal District.
(3) Panvel Municipal District.

(*p*) *Kolaba District*—contd.

(4) Pen Municipal District.
(5) Roha-Ashtami Municipal District.
(6) Uran Municipal District.
(7) Karjat Village.

(*q*) *Ratnagiri District*—

(1) Ratnagiri Municipal Borough.
(2) Chiplun Municipal District.
(3) Malwan Municipal District.
(4) Vengurla Municipal District.

SCHEDULE II.

[*See* section 2 (*2*).]

(*i*) The City of Bombay.

(*ii*) *Ahmednagar District*—

(1) Ahmednagar Municipal Borough.
(2) Ahmednagar Cantonment.
(3) Sangamner Municipal District.
(4) Kopargaon Municipal District.
(5) Shrirampur Municipal District.
(6) Akola Village.
(7) Rahuri Budruk Village.
(8) Newasa Village.
(9) Shevgaon Village.
(10) Shrigonda Village.
(11) Pathardi Village.
(12) Karjat Village.
(13) Jamkhed Village.
(14) Parner Village.
(15) Belapur Budruk Village.
(16) Newasa Khurd Village.
(17) The Revenue Village of Rahuri Khurd.
(18) The Revenue Village of Belapur Khurd.

(*iii*) *East Khandesh District*—

(1) Jalgaon Municipal Borough.
(2) Bhusaval Municipal Borough.
(3) Amalner Municipal Borough.

(*iii*) *East Khandesh District*—contd.

(4) Chalisgaon Municipal Borough.
(5) Pachora Municipal District.
(6) Chopda Municipal District.
(7) Yawal Municipal District.
(8) Raver Municipal District.
(9) Savda Municipal District.
(10) Faizpur Municipal District.

(*iv*) *West Khandesh District*—

(1) Dhulia Municipal Borough.
(2) Nandurbar Municipal District.

(*v*) *Poona District*—

(1) Poona City Municipal Borough.
(2) Poona Suburban Municipal Borough.
(3) Poona Cantonment.
(4) Kirkee Cantonment.
(5) Lonavla Municipal Borough, including the Khandala area.
(6) Dhond Municipal District.

[1][SCHEDULE III.

(*See* section 10A.)

(*a*) *Bombay Suburban District*—

(1) Kurla Municipal Borough.
(2) Bandra Municipal Borough.
(3) Parle-Andheri Municipal Borough.
(4) Ghatkopar-Kirol Municipal Borough.
(5) Juhu Municipal District.
(6) Chembur Village.

(*b*) *Thana District*—

(1) Thana Municipal Borough.
(2) Malad Notified Area.
(3) Kandivali Notified Area.

(*b*) *Thana District*—contd.

(4) Borivli Notified Area.
(5) Mulund Village.
(6) Bhayandar Village.

(*c*) *Ahmedabad District*—

(1) Ahmedabad Municipal Borough.
(2) Ahmedabad Cantonment.

(*d*) *Poona District*—

(1) Poona City Municipal Borough.
(2) Poona Suburban Municipal Borough.
(3) Poona Cantonment.
(4) Kirkee Cantonment.]

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[1] This schedule was added by Bom. 3 of 1949, s. 12.

THE BOMBAY RATIONING (PREPARATORY AND CONTINUANCE) MEASURES ACT, 1947.

CONTENTS

PREAMBLE.

SECTIONS.

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BOMBAY ACT No. LVIII OF 1947.[1]

[THE BOMBAY RATIONING (PREPARATORY AND CONTINUANCE) MEASURES ACT, 1947.]

[*19th January 1948.*]

An Act to provide for the numbering of premises and collecting information about persons and establishments, as measures preparatory to and for continuance of the rationing of articles or things essential to the life of the community.

WHEREAS it is expedient to provide for the numbering of premises and collecting information about persons and establishments, as measures preparatory to and for continuance of the rationing of articles or things essential to the life of the community; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Rationing (Preparatory and Continuance) Measures Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) The Provincial Government may, by notification in the Official Gazette, direct that it shall come into force in any area on such date as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) "Establishments" means catering establishments, institutions, residential establishments, manufacturing establishments, mills, industries, animal establishments and any other establishments or class of establishments which the Provincial Government or an officer authorised by it in this behalf may declare to be establishments for the purposes of this Act.

(*2*) (*i*) "Catering establishments" includes hotels, restaurants, eating houses, cafes, tea shops, coffee stalls, free feeding centres and every other place of refreshment open to the public, clubs, canteens and other similar establishments.

(*ii*) "Institutions" includes hospitals, sanatoria, convalescent homes, nursing homes, orphanages, work-houses, infirmaries, asylums, boarding schools (providing meals for day-boarders) and other similar establishments.

(*iii*) "Residential establishments" shall not include private households but shall include boarding houses, apartment houses, residential hotels, hostels, nurses' homes, boarding schools (without any day-boarders) and other similar establishments.

(*iv*) "Manufacturing establishments" includes bakeries, confectioneries and other similar establishments.

(*v*) "Mills" includes flour-mills, provender mills, and other similar establishments.

(*vi*) "Industries" means undertakings requiring the use of any article specified in this behalf by the Provincial Government by notification in the Official Gazette, in the process of production, manufacture or finish of any article.

(*vii*) "Animal establishments" includes stables or horses or cattle, poultry farms, zoos, menageries, veterinary hospitals, *pinjrapples* and other similar establishments.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 236; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. XI; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XIII.

(*3*) "Inquiry Officer" means a person authorised under clause (*b*) of sub-section (*1*) of section 3 and includes any person appointed to assist him under sub-section (*2*) of section 3;

(*4*) "Numbering Officer" means a person authorised under clause (*a*) of sub-section (*1*) of section 3 and includes any person appointed to assist him under sub-section (*2*) of section 3.

Power to number premises and collect information about persons.

3. (*1*) If in the opinion of the Provincial Government it is necessary or expedient to carry out any of the following measures as preparatory to, or for continuance of, the rationing of any article or thing essential to the life of the community, the Provincial Government may—

(*a*) authorise any person in respect of any area to paint or repaint on, or affix or re-affix to, any premises, such letters, marks or numbers as may be necessary for facilitating their identification;

(*b*) authorise any person in respect of any area to collect and verify or reverify information and statistics necessary for introduction or continuance of rationing in that area.

(*2*) The person authorised under sub-section (*1*) may by order in writing appoint any other person or persons to assist him in carrying out the measures.

Obligation to answer certain questions and to furnish certain information.

4. (*1*) An Inquiry Officer may, for the purposes mentioned in clause (*b*) of sub-section (*1*) of section 3, ask of any person such questions as the Provincial Government may notify in the Official Gazette.

(*2*) An Inquiry Officer may for the said purposes order any person owning or in charge of an establishment to furnish to him information in respect of the said establishment in such form as the Provincial Government may, by notification in the Official Gazette, specify.

(*3*) Every person to whom a question is asked under sub-section (*1*) or who is ordered to furnish any information under sub-section (*2*) shall be legally bound to answer the question or furnish the information to the best of his knowledge and belief and if so required by the Inquiry Officer to do so, in writing, with his name signed thereto.

Right of access.

5. Every person occupying any premises shall allow the Numbering Officer or Inquiry Officer such access thereto as he may require for the purpose of his work:

Provided that in requiring access due regard shall be paid by such Officer to the social and religious customs of the occupier.

Letters, marks and numbers painted, etc., and orders made under Defence of India Rules to be deemed to be painted, etc., under this Act.

6. All letters, marks and numbers painted or repainted on, or affixed or reaffixed to, any premises under an order made by whatever authority under the Defence of India Rules shall be deemed to be painted or repainted on, or affixed or reaffixed to, such premises under this Act.

Penalties.

7. (*a*) Any Inquiry Officer who knowingly makes any false returns in connection with any inquiry conducted by him; or

(*b*) any person who voluntarily obstructs a Numbering Officer or Inquiry Officer in the exercise of his powers or the performance of his duties as such officer; or

(*c*) any person who is legally bound under section 4 to answer any question or to furnish any information—

(*i*) refuses to give an answer or to furnish the information to the best of his knowledge or belief; or

(*ii*) gives an answer or furnishes information which is false and which he either knows or believes to be false or does not believe to be true;

(*d*) any person occupying any premises who refuses to allow access to a Numbering Officer or Inquiry Officer as required by section 5; or

(*e*) any person who removes, obliterates, alters or damages any letters, marks or numbers which are painted or repainted on, or affixed or re-affixed to, or deemed to be painted or repainted on, or affixed or re-affixed to, any premises under this Act,

shall, on conviction, be punishable with imprisonment, which may extend to six months and shall also be liable to fine which may extend to five hundred rupees.

Bar of proceedings.

8. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

Sanction for prosecution.

9. No prosecution under this Act shall be instituted without the previous sanction of the Provincial Government or such officer as the Provincial Government may authorise in this behalf.

Repeal.

Bom. I of 1943.

10. The Bombay Rationing Preparatory Measures Act, 1943, is hereby repealed:

Provided that—

(*i*) every authority granted under the repealed Act, and in force immediately before the coming into force of this Act, shall be deemed to be granted under this Act; and

(*ii*) all letters, marks and numbers, painted or re-painted on, or affixed or re-affixed to, any premises under the repealed Act shall be deemed to be painted or re-painted, or affixed or re-affixed to, any premises under this Act.

THE BOMBAY PRIMARY EDUCATION ACT, 1947.

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BOMBAY ACT No. LXI OF 1947.[1]

[THE BOMBAY PRIMARY EDUCATION ACT, 1947.]

[*29th January 1948*]

Amended by Bom. 8 of 1949.
" " " 46 of 1949.
" " " 8 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 9 of 1951.
" " " 39 of 1951.
" " " 46 of 1951.
" " " 25 of 1952.
" " " 33 of 1953.
" " " 26 of 1954.
" " " 67 of 1954.
" " " 2 of 1955.

An Act to provide for compulsory primary education and to make better provision for the management and control of primary education in the Province of Bombay.

WHEREAS it is the duty of Government to secure the development and expansion of primary education ; and whereas it is the declared policy of Government that universal, free and compulsory primary education should be reached by a definite programme of progressive expansion ; and whereas it is expedient to make better provision for the development, expansion, management and control of primary education in the Province of Bombay ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Primary Education Act, 1947.
(*2*) It extends to the whole of the [2][State] of Bombay except [3][Greater Bombay].
(*3*) It shall come into force on such date as the [4][State] Government may by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—
(*1*) "Administrative Officer" means an officer appointed under section 21 or 22 ;
(*2*) "Approved school" means a primary school maintained by the [4][State] Government or by a school board or by an authorized municipality or which is for the time being recognized as such by a school board or by the [4][State] Government or by an officer authorized by it in this behalf ;
(*3*) "Area of compulsion" means the area in which primary education up to any standard is compulsory ;
(*4*) "Area of an authorized municipality" means the area comprised within the limits of such municipality and shall include the area of a non-authorised municipality approved schools in which vest in or are controlled by the authorized municipality ;
(*5*) "To attend an approved school" means to be present for instruction at such school on such days and at such time and for such period on each day as may be required under the regulations framed by the school board ;
(*6*) "Authorized Municipality" means a municipality which is authorised by the [4][State] Government under sub-section (*1*) of section 16 to control all approved schools within its area ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Part V, page 328 ; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. XI ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XIII.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the original by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*7*) "Child" means a boy or girl whose age is not less than six and not more than fourteen years at the beginning of the school year.

Explanation.—For the purposes of this definition, "school year" shall mean the year beginning with such date as the school board may, with the sanction of the Director, fix;

(*8*) "Director" means [1][the Director of Education] for the [2][State] of Bombay;

(*9*) "District" in clause (*h*) of section 5, in section 6, sub-section (*3*) of section 10, and section 19 means the district as formed under the Bombay Land Revenue Code, 1879, and elsewhere the area comprised in a district so formed excluding the areas of authorized municipalities, and cantonments; Bom. V of 1879.

(*10*) "District School Board" means a school board constituted for a district under section 3;

[3][(*10A*) "Educational Inspector of the district" means the Educational Inspector appointed for a district or group of districts;]

(*11*) "Municipal School Board" means a school board constituted for the area of an authorized municipality under section 3;

(*12*) "Non-authorised Municipality" means a municipality other than an authorized municipality;

(*13*) "Parent" includes a guardian or any person who has the custody of a child;

(*14*) "Prescribed" means prescribed by the rules made under this Act;

(*15*) "Primary Education" means education in such subjects and up to such standards, as may be determined by the [4][State] Government from time to time;

(*16*) "Primary Education Fund" means the fund maintained under section 44;

(*17*) "Primary School" means a school or a part of a school in which primary education up to any standard is imparted;

(*18*) "[4][State] Board of Primary Education" means the board constituted under section 58;

(*19*) "School Board" means a district school board or a municipal school board, as the case may be.

CHAPTER II.

Constitution of District and Municipal School Boards.

School Boards.

3. (*1*) For each district there shall be a district school board.

(*2*) For each area of an authorized municipality there shall be a municipal school board.

Constitution of school boards.

4. (*1*) Each school board shall consist of members not less than twelve and not more than sixteen in number.

(*2*) Of these members not less than two and not more than three in number shall be appointed by the [4][State] Government.

(*3*) The number of members under sub-sections (*1*) and (*2*) shall be determined by the [4][State] Government from time to time.

(*4*) Of the members appointed by the [4][State] Government under sub-section (*2*) one shall be an officer of the [4][State] Government; and the remaining shall be persons (*i*) who shall have passed the matriculation examination or shall possess any other equivalent or higher educational qualification which the [4][State] Government may specify in this behalf or (*ii*) who have had experience of the system or institutions of primary education.

(*5*) (*a*) The members other than those appointed by the [4][State] Government shall be elected by the district local board or the authorized municipality as the case may be:

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[1] These words were substituted for the words "the Director of Public Instruction" by Bom. 39 of 1951, s. 3, Second Schedule.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] This clause was inserted by Bom. 2 of 1955, s. 3, Second Schedule.

[4] This word was substituted for the word "Provincial", by the Adaptation of Laws Order, 1950.

Provided that where approved schools within the area of any non-authorized municipalities are controlled by the district school board or the authorised municipality, not more than two of such members as may be determined by the [1][State] Government from time to time shall be elected in the manner prescribed by the said non-authorised municipalities, on the district school board or municipal school board, as the case may be.

(*b*) Members elected under this sub-section shall not necessarily be members of the electing local authority.

[2][(*c*) Notwithstanding anything contained in this sub-section, in the case of a district local board or authorized municipality the term of office of the members or councillors of which expires on or before the 31st day of July 1949, the election of the members of the school board shall not be held by such district local board or authorized municipality, as the case may be, until after the new district local board or the authorized municipality, has been constituted.]

[3][(*6*) Of the members elected by the district local board or by the authorised municipality such number not exceeding two as may be prescribed shall be from amongst the Scheduled Castes and the Scheduled Tribes.]

(*7*) Members elected under sub-section (*5*) shall have passed the primary school certificate examination or shall possess such other equivalent or higher, educational qualification as may be prescribed :

Provided that persons from amongst [4][the Scheduled Castes and the Scheduled Tribes] shall be eligible for being elected as members if they shall have passed at least the primary fourth standard examination :

Provided further that out of the seats of the members to be elected by the district local board or the authorized municipality not less than three shall be reserved in the prescribed manner for persons [5][who have passed the matriculation or the second year training certificate examination or who possess any other equivalent or higher educational qualification which the [1][State] Government may specify in this behalf] ;

[6][*Explanation.*—For the purposes of sub-sections (*6*) and (*7*), " Scheduled Castes " and " Scheduled Tribes " means those Scheduled Castes and Scheduled Tribes which are deemed to be Scheduled Castes and Scheduled Tribes in relation to the State of Bombay under Article 341 or 342, as the case may be, of the Constitution.]

(*8*) If the [1][State] Government is satisfied that any election (including a bye-election) cannot for any reason be held at all or cannot be completed within such period as the [1][State] Government considers reasonable or has not resulted in the return of the required number of qualified persons willing to take office, the [1][State] Government shall nominate from amongst persons who would have been qualified to be elected the required number of persons as members of the school board and the persons so nominated shall be deemed to have been duly elected under sub-section (*5*) :

[7][Provided that if at any time after the nomination of such persons as members of the school board, the State Government is satisfied that a fresh election, (including a by-election) can be duly held, the State Government may, by

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[2] This clause was inserted by Bom. 8 of 1949, s. 2 (*1*).

[3] This sub-section was substituted for the original by Bom. 25 of 1952, s. 2 (*1*).

The amendments made by section 2 of Bom. 25 of 1952 shall not apply to any school board existing on the date of the commencement of the said Act but shall apply to any new school board constituted thereafter (*vide* s. 10 of Bom. 25 of 1952).

[4] These words were substituted for the words " the backward communities " *ibid*, s. 2 (*2*). *See* also para. 2 of footnote 3.

[5] These words were substituted for the words " who have passed the matriculation or second year training certificate examination " by Bom. 46 of 1949, s. 2 (*1*).

[6] This Explanation was subetituted for the original by Bom. 25 of 1952, s. 2 (*3*). *See* also para. 2 of footnote 3.

[7] This proviso was added by Bom. 26 of 1954, s. 2 (*1*).

notification published in the *Official Gazette*, direct that the members so nominated shall cease to hold office with effect from such date as may be specified in such notification, notwithstanding the fact that the term of office of such members for which they had been nominated has not expired.]

(*9*) Except as otherwise provided in this Act, the term of office of the members of a school board shall cease on the expiry of the term of the electing district local board or authorized municipality:

Provided that the term of office of such members shall not be deemed to expire by reason only of the fact that the district local board or authorized municipality, as the case may be, is dissolved or superseded.

(*10*) (*a*) If the term of office of the members of a school board expires during the supersession of the electing district local board or authorized municipality a new school board shall be constituted as provided in sub-sections (*1*) to (*7*) until the district local board or authorized municipality, as the case may be, is re-established, provided that the members of such school board shall be nominated by the [1][State] Government.

(*b*) The term of office of the members of the school board so nominated shall be for such period not exceeding three years as the [1][State] Government may determine:

Provided that if during such period the district local board or authorized municipality, as the case may be, is re-established, the term of office of the members of the school board shall expire on the date on which a new school board is constituted.

(*11*) Notwithstanding [2][the cessation or expiry of the term of office of the members] of any school board under sub-section [3][(*8*), (*9*)] or (*10*) they shall continue in office until the members of a new school board are elected, appointed or nominated, as the case may be.

(*12*) (*a*) Any member of a school board other than the chairman or vice-chairman may resign his office by giving notice in writing to that effect to the chairman and such resignation shall take effect from the date of its receipt by the chairman.

(*b*) The vice-chairman may resign his office as vice-chairman or member by giving notice in writing to that effect to the chairman. The chairman may resign his office as chairman or member by giving notice in writing to that effect to the president of the district local board or the authorized municipality, as the case may be. Such resignation shall take effect from the date of their acceptance by the chairman or the president.

(*13*) Casual vacancies including that of a chairman or vice-chairman during the term of a school board shall be filled for the remaining period by election, appointment or nomination, as the case may be:

[4][Provided that no election shall be held to fill up a vacancy of a member occurring within four months of the date on which the term of office of the members of the school board expires.]

[5][(*14*) During any vacancy the continuing members may act as if no vacancy had occurred.]

[6][(*15*) When any area is added to the limits of a district during the term of office of the electing district local board of the district, the [1][State] Government may, notwithstanding anything contained in the preceding sub-sections, direct that the

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the original by Bom. 26 of 1954, s. 2 (*2*) (*i*).
[3] These brackets and figures were substituted for the brackets and figure "(9)", *ibid.*, s. 2 (2)(*ii*).
[4] This proviso was added by Bom. 8 of 1949, s. 2 (*2*).
[5] This sub-section was added, *ibid.*, s. 2 (*3*).
[6] Sub-section (*15*) was inserted by Bom. 46 of 1949, s. 2 (*2*).

school board constituted for the district may consist of such number of members exceeding sixteen, and may appoint such persons to be the additional members of the school board to represent the area added to the limits of the district, as it thinks fit.]

Disqualifications of members.

5. No person shall be elected, appointed or nominated a member of a school board who—

(*a*) is less than 25 years of age, or

(*b*) is a judge of civil court or [1][a salaried magistrate], or

(*c*) (*i*) has been sentenced by a criminal court to fine, imprisonment or whipping for an offence involving moral turpitude and punishable with imprisonment for a term exceeding six months or to transportation, such sentence not having been subsequently reversed or quashed, or

(*ii*) is a person against whom an order has been passed under section 118 of the Code of Criminal Procedure, 1898, in proceedings instituted under section 110 of the said Code, such order not having subsequently been reversed or quashed, or

V of 1898.

(*iii*) has been removed from office under this Act and five years have not elapsed from the date of such removal,

unless he has, by an order of the [2][State] Government notified in the *Official Gazette*, been relieved from the disqualification arising on account of such sentence, order or removal from office, or

(*d*) is a stipendiary officer or an employee of any school board, or district local board or municipality, or

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[1] These words were substituted for the words "a magistrate" by Bom. 46 of 1949, s. 3.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*e*) who has been adjudged an insolvent and has not obtained his discharge, or

(*f*) has, directly or indirectly, by himself or his partner, any share or interest in any work done by order of, or in any contract entered into on behalf of the school board or the electing local authority, or

(*g*) is an employee or a teacher in any approved school, or

(*h*) has resided within the district for a period of less than six months preceding the date fixed for recording of votes for elections to the school board, or

(*i*) has been adjudged by a competent court to be of unsound mind.

Explanation.—A person shall not be deemed to have incurred disqualification under clause (*f*) by reason of his—

(*a*) having any share or interest in any lease, sale or purchase of any immovable property or in an agreement for the same if before taking his seat as a member of the school board, he has obtained the sanction of the Provincial Government to have such share or interest, or

(*b*) having a share or interest in any joint stock company or in any society registered or deemed to be registered under the Bombay Co-operative Societies Act, 1925, which may contract with or be employed by or on behalf of the school board or the electing local authority, or

Bom. VII of 1925.

(*c*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the school board or the electing local authority may be inserted, or

(*d*) holding a debenture or being otherwise interested in any loan raised by or on behalf of the school board or the electing local authority, or

(*e*) having a share or interest in the occasional sale to the school board or electing local authority of any article in which he regularly trades, or in the purchase from the school board or the electing local authority of any article, to a value in either case not exceeding in any official year five hundred rupees, or such higher amount not exceeding two thousand rupees as the school board or the electing local authority with the sanction of the Provincial Government may fix in this behalf, or

(*f*) having a share or interest in the occasional letting out on hire to the school board or the electing local authority or in the hiring from the school board or the electing local authority of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees as the school board or the electing local authority with the sanction of the Provincial Government may fix in this behalf, or

(*g*) being a police patel who is an *ex-officio* keeper of village cattle pounds under the control of the electing local authority.

Determination of validity of elections; enquiry by Judge; procedure.

6. (*1*) If the validity of the election of a member of a school board is brought in question by an unsuccessful candidate or by any person qualified to vote at the election, such person may, at any time within fifteen days after the date of the declaration of the result of the election, apply to the District Judge of the district within which the election has been or should have been held for the determination of such question.

(*2*) An enquiry shall thereupon be held by a Judge not below the grade of an Assistant Judge and such Judge may, after such enquiry as he deems necessary, pass an order confirming or amending the declared result of the election or setting the election aside. For the purposes of the said enquiry, the said Judge may

exercise any of the powers of a civil court, and his decision shall be conclusive. If he sets aside an election, a date shall forthwith be fixed, and the necessary steps taken for holding a fresh election.

(*3*) All applications received under sub-section (*1*)—

(*a*) in which the validity of the election of members is in question shall as far as possible, be heard by the same Judge, and

(*b*) in which the validity of the election of the same member is in question shall be heard together.

(*4*) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not allow (*a*) any application to be compromised or withdrawn, or (*b*) any pleadings in the proceedings to be altered or amended, unless he is satisfied that such application, alteration or amendment is *bona fide* and not collusive. V of 1908.

(*5*) (*a*) If on holding such enquiry the Judge finds that a candidate has for the purpose of the election committed a corrupt practice within the meaning of sub-section (*6*), he shall declare the candidate disqualified both for the purpose of that election and of such fresh election as may be held under sub-section (*2*), and shall set aside the election of such candidate if he has been elected.

(*b*) If, in any case to which clause (*a*) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall after a scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected:

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

(*6*) A person shall be deemed to have committed a corrupt practice—

(*a*) who, with a view to inducing any voter to give or refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit or holds out any threat of injury to any person; or

(*b*) who gives, procures or abets the giving of a vote in the name of a voter who is not the person giving such vote;

and a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation.—The expression "a promise of individual profit"

(*i*) does not include a promise to vote for or against any particular measure which may come before a school board for consideration, but

(*ii*) subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

(*7*) If the validity of the election is brought in question only on the ground of an irregularity or informality which has not materially affected the result of the election or which has not been corruptly caused, the Judge shall not set aside the election.

(*8*) If the Judge sets aside an election under clause (*a*) of sub-section (*5*) he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of sub-section (*6*) to be disqualified from being a member of any school board for a term of years not exceeding five and the decision of the Judge shall be conclusive:

Provided that no such declaration shall be made in respect of any person without such person being given an opportunity to show cause why such declaration should not be made:

Provided further that such person may by an order of the [1][State] Government in that behalf be at any time relieved from such disqualification.

Disqualification after becoming member.

7. (*1*) If any member of a school board, during the term for which he has been elected, appointed or nominated—

[2][(*a*) absents himself from the meetings during three successive months or from three consecutive meetings of the school board whichever period is longer, without the [3]* permission of the Board, or]

(*b*) becomes subject to any of the disqualifications mentioned in [4][section 5] he shall be disabled from continuing to be a member of such board and his seat shall be deemed to be vacant:

Provided that he shall not be deemed to have incurred any disqualification under clause (*f*) of section 5 by reason of his having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same, if he has obtained the previous sanction of the [1][State] Government to have such share or interest.

(*2*) If any question, dispute or doubt arises whether a vacancy has occurred under this section, the orders of the [1][State] Government shall be final for the purpose of deciding such question, dispute or doubt.

Disabilities on account of interest in subject matter.

8. A member shall not vote or take part in a discussion on any matter before a meeting of a school board in which he has directly or indirectly, by himself or his partner, any share or interest such as is described in clause (*f*) of section 5 or in which he is professionally interested on behalf of a client, principal or other person. The vote so given shall not be counted.

Removal of members of school board for misconduct.

9. The [1][State] Government may on its own motion or on the recommendation supported by a resolution passed by at least two-thirds of the whole number of members of—

(*i*) a school board, or

(*ii*) the district local board or the authorized municipality which elected the member,

remove any member elected, appointed or nominated on the school board, if such member has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or has become incapable of performing his duties as a member by reason of any physical or mental infirmity:

Provided that no person shall be so removed nor shall any resolution recommending the removal of any member be passed unless the member to whom it relates has been given a reasonable opportunity of showing cause why he should not be so removed or why such recommendation should not be made.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This clause was substituted for the original by Bom. 46 of 1949, s. 4.
[3] The word "previous" was deleted by Bom. 25 of 1952, s. 3.
[4] This word and figure were substituted for the word and figure "section 6" by Bom. 9 of 1951, s. 3, Second Schedule.

Disqualification of person for misconduct after he has resigned as member.

[1][**9A.** If any person, who was a member of a school board and who had resigned his office as such member, has been, after due inquiry, found guilty of misconduct in the discharge of his duties, or of any disgraceful conduct as a member, the State Government may by an order notified in the *Official Gazette* declare him notwithstanding the fact that he had resigned his office as such member, to be disqualified for being elected, appointed or nominated a member of any school board from such date and for such period not exceeding five years as may be specified in the order. The State Government may at any time by like order remove the disqualification so incurred by any person. The decision of the State Government under this section shall be final.]

Election of chairman and vice-chairman.

10. (*1*) Every school board shall elect a chairman and a vice-chairman from amongst the members of the board.

(*2*) A chairman or a vice-chairman shall be removable from office by a resolution passed to that effect, provided that at least two-thirds of the total number of members of the school board vote in favour of such resolution or where the number of such members voting in favour of such resolution is less than two-thirds but more than one-half of the total number of members of the school board, sanction is accorded by the [2][State] Government for such removal and provided, further, that before such resolution is passed, the chairman or vice-chairman is given at least two weeks' notice of such resolution and a reasonable opportunity of showing cause why such resolution should not be passed.

(*3*) Every chairman or vice-chairman who, for a continuous period exceeding three months, absents himself from the district without leave of the school board shall cease to be chairman or vice-chairman.

(*4*) No leave shall be granted by the school board under sub-section (*3*) for a total period exceeding six months during the term of the school board.

(*5*) Whenever leave is granted to a vice-chairman under sub-section (*3*), a member shall be elected to be vice-chairman during the period of such leave.

Authority in place of district school board where there is no district local board.

[3][**10A.** (*1*) Notwithstanding anything contained in this Act and save as otherwise provided in section 18-A, in any district for which a district local board has not been established, the powers and duties of the district school board under this Act shall be exercised and performed by such authority as the [2][State] Government may appoint. The exercise of such powers and the performance of such duties shall be in accordance with such directions as the [2][State] Government may from time to time give.

(*2*) The [2][State] Government shall maintain such number of primary schools in such district as it may from time to time determine.

(*3*) When a district local board is established for such district, the [2][State] Government may by order direct that with effect from such date as may be specified in the order, hereinafter in this section referred to as the said date,—

(*a*) such primary schools with their lands, buildings, records and equipment as may be specified in the order shall vest in the district school board constituted for the district;

(*b*) such primary school teachers and other persons as may be specified in the order, who were employed for the purposes of the primary schools maintained by the [2][State] Government immediately before the said date, shall be taken over and employed by the said district school board, on the same terms and conditions on which they were employed immediately before the said date or on such other terms and conditions, as the [2][State] Government may direct.]

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[1] Section 9A was inserted by Bom. 25 of 1952, s. 4.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] This section was inserted by Bom. 46 of 1949, s. 5.

CHAPTER III.

POWERS, DUTIES AND FUNCTIONS OF DISTRICT SCHOOL BOARDS, AUTHORIZED MUNICIPALITIES AND MUNICIPAL SCHOOL BOARDS.

A. *District School Boards.*

Incorporation of district school boards.

11. Every district school board shall be a body corporate by the name of "The District School Board of.....", and shall have perpetual succession and a common seal and may sue and be sued in its corporate name, and shall be competent to acquire and hold property both movable and immovable, whether within or without the limits of its area, to lease, sell or otherwise transfer any movable or immovable property which may have become vested in or been acquired by it, and to contract and do all things necessary for the purposes of this Act.

Vesting of property in and absorption of staff by district school board.

12. (*1*) Notwithstanding anything contained in any law, [1][on the date of the coming into force of this Act (hereinafter in this section referred to as "the said date")] all primary schools with their lands, buildings, records and equipment and all other properties, movable or immovable, which were vested in, held by or were under the control of [2][a district local board] for the purposes of primary education immediately before [3][the said date] shall, on [4][the said date] be vested in, held by or be under the control of the district school board for the said purposes :

Provided that in the event of any question, dispute or doubt arising as to whether any particular property shall so vest in or be held by or be under the control of the district school board, the matter shall be referred to the [5][State] Government whose decision thereon shall be final.

(*2*) [6][On the said date] every district local board shall transfer and every district school board shall take over and employ such primary school teachers and other persons as were employed by or under the district local board on [7][the said date] for the purposes of primary education, on the same terms and conditions on which such teachers or persons were employed by or under the said district local board.

(*3*) The existing and future rights, liabilities, duties and powers of the district local board in respect of such teachers or other persons so far as they are not inconsistent with the provisions of this Act or the rules or regulations made thereunder shall vest in and be performed or exercised by the said district school board on and as from [8][the said date.]

Powers, duties and functions of district school boards.

13. (*1*) Subject to the provisions of this Act and the rules made thereunder, the district school board shall have control over all approved schools within the district and may grant aid to any approved school other than a primary school maintained by the [5][State] Government or by a school board or by an authorized municipality.

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[1] This portion was substituted for the words "on the constitution of a district school board under section 4" by Bom. 8 of 1949, s. 3.
[2] These words were substituted for the words "the district local board", *ibid.*
[3] These words were substituted for the words "the date on which the school board was constituted", *ibid.*
[4] These words were substituted for the words "such date", *ibid.*
[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[6] These words were substituted for the words "on a date notified by the Provincial Government in this behalf", by Bom. 8 of 1949, s. 3.
[7] These words were substituted for the words "such date", *ibid.*
[8] These words were substituted for "the date notified under sub-section (*2*)", *ibid.*

(*2*) Subject to the provisions of this Act and the rules made thereunder, and so far as its primary education fund will allow, the district school board shall perform the following duties and functions :—

(*a*) to provide for the welfare of the children attending primary schools;

(*b*) to maintain an adequate number of primary schools;

(*c*) to provide adequate accommodation and equipment for primary schools;

(*d*) to maintain an adequate staff of Assistant Administrative Officers, Supervisors, Attendance Officers, clerks, teachers, inferior servants and other staff as may in the opinion of the Provincial Government be necessary;

(*e*) to maintain an adequate number of engineering staff required for the construction and maintenance of schools and other buildings;

(*f*) to determine, on the recommendation of the Administrative Officer, the distance measured according to the nearest road between an approved school and the residence of a child for purposes of clause (*c*) of section 33;

(*g*) to determine with the approval of the Educational Inspector the hours of instruction and the number and duration of vacations;

(*h*) to determine the exact location of primary schools;

(*i*) to grant on the recommendation of the Administrative Officer exemption from attending an approved school to a child who is receiving instruction otherwise than in an approved school;

(*j*) to sanction all tenders for the supply of forms, stationery, furniture or equipment;

(*k*) to suggest the opening of additional schools for the sanction of the Provincial Government;

(*l*) to recommend to the Director such modifications in the curriculum as may seem necessary to suit local requirements;

(*m*) to advise the Provincial Government generally in respect of primary education within the district;

(*n*) to carry on propaganda for the expansion of primary education;

(*o*) to perform such other duties and functions as may be prescribed.

(*3*) The district school board shall from time to time with the sanction of the Director make regulations not inconsistent with the provisions of this Act and the rules made thereunder for—

(*i*) laying down the days, the time and the periods on each day during which a child shall be present for instruction at an approved school;

(*ii*) determining the constitution, powers and duties of the taluka advisory committees;

(*iii*) the supply of books, slates, educational requisites, milk, meals or clothes to children of any age receiving primary education, if provision for such supply is made.

Relinquishment of powers and duties.

14. (*1*) The district school board may, by a resolution passed by at least two-thirds of the whole number of members of the board, and with the consent of the District Local Board, intimate to the Provincial Government that it desires to relinquish its powers and duties excepting the duties of advising and of carrying on propaganda for the expansion of primary education.

(*2*) If, on receipt of such intimation, the Provincial Government so directs, all powers and duties of the district school board, other than those so excepted, shall from such date and for such period as may be notified by the Provincial Government in this behalf be exercised and performed on behalf of the Provincial Government in the prescribed manner.

(*3*) All primary schools with their lands, buildings, records and equipment and all other properties, moveable or immovable, which were vesting in, held by or were under the control of the district school board immediately before the date notified by the Provincial Government under sub-section (*2*) shall vest in, be held by or be under the control of the Provincial Government during the period notified under the said sub-section.

Constitution of taluka advisory committee.

15. The district school board may by a resolution recommend to the Provincial Government the establishment of taluka advisory committees for all or any of the talukas in the district to advise it in respect of primary education. On such recommendation being accepted by the Provincial Government such committees shall be constituted from a date to be notified by the Provincial Government in the *Official Gazette*. The constitution, powers and duties of the committees shall be as laid down in the regulations made by the district school board :

Provided that the Provincial Government may on its own motion or on the recommendation of the district school board supported by at least two-thirds of the whole number of members of the board by an order dissolve a taluka advisory committee from a date to be notified in the *Official Gazette*.

B. *Authorized Municipalities.*

Authorized municipalities to exercise powers, etc. and hold properties of local authority municipalities.

16. (*1*) The Provincial Government may authorize any municipality constituted under the Bombay District Municipal Act, 1901, or under the Bombay Municipal Boroughs Act, 1925, to control all approved schools within its area. Bom. III of 1901. Bom. XVIII of 1925.

(*2*) Subject to the provisions of this Act and of the rules and regulations made thereunder, all existing and future rights, liabilities, powers and duties of any municipality, which was a local authority under the Bombay Primary Education Act, 1923, immediately before the date of the coming into force of this Act, in respect of primary school teachers and other persons employed by it for the purposes of primary education shall on such date vest in and be performed or exercised by the said municipality as an authorized municipality under this Act ; and all properties, moveable and immovable, vesting in or held by or under the control of such municipality for the purposes of primary education, shall from such date continue to vest in, be held by or be under the control of the said municipality as such authorized municipality. Bom. IV of 1923.

Duties and functions of authorized municipalities.

17. (*1*) Subject to the provisions of this Act and the rules made thereunder an authorized municipality shall perform the following duties and functions, namely :—

(*a*) to make adequate provision for maintaining the existing primary schools and opening new schools wherever necessary and for granting aid to approved schools other than primary schools maintained by the Provincial Government or by a school board or by an authorized municipality ,

(*b*) to provide adequate accommodation and equipment for primary schools ;

(*c*) to maintain an adequate staff of Assistant Administrative Officers, Supervisors, Attendance Officers, clerks, teachers, inferior servants and other staff as may in the opinion of the Provincial Government be necessary ;

(*d*) to make adequate provision for facilities for the free primary education of all children to whom a scheme of compulsion applies ;

(*e*) to sanction with or without variation the budget of the municipal school board ;

(*f*) to perform such other duties and functions as may be prescribed.

(*2*) The authorized municipality may, subject to the provisions of this Act and the rules made thereunder, also make provision for the welfare of the children attending primary schools within its area.

(*3*) The authorized municipality shall, subject to the sanction of the Provincial Government, make regulations—

(*i*) determining the qualifications, pay and terms of employment of the Assistant Administrative Officers, Supervisors, Attendance Officers, clerks, inferior servants and other staff ;

(*ii*) regulating the administration, management and control of primary schools;

(*iii*) determining the qualifications, pay and terms of employment of the Administrative Officer appointed by it under section 22 ;

(*iv*) for the supply of books, slates, educational requisites, milk, meals or clothes to children receiving primary education, if provision of such supply is made.

C. *Municipal School Boards.*

Powers, duties and functions of municipal school boards.

18. (*1*) Subject to the provisions of this Act and the rules made thereunder, the municipal school board shall be responsible for the management and control of all primary schools which vest in the authorized municipality and for the control of all other approved schools within the area of the authorized muncipality excepting such as are maintained by the Provincial Government ; and the board shall exercise such powers and perform such duties and functions of the authorized municipality in respect of primary education as may be prescribed.

(*2*) Subject to the provisions of this Act and the rules made thereunder, a municipal school board shall perform the following duties and functions, namely :—

(*a*) to prepare schemes to be submitted by the authorized municipality to the Provincial Government for expansion of primary education and to carry out the provisions of such scheme ;

(*b*) to disburse monies from the primary education fund in accordance with the budget sanctioned by the authorized municipality ;

(*c*) to perform the duties and functions specified in clauses (*f*) to (*j*) and (*l*) and (*n*) of sub-section (*2*) of section 13 ;

(*d*) to perform such other duties and functions as may be prescribed.

(*3*) The municipal school board shall, with the sanction of the Director, make regulations laying down the days, the time and the periods on each day during which a child shall be present for instruction at an approved school.

[1][D. *Merged Areas.*]

Vesting of property and absorption of staff in merged area

[1][**18A.** (*1*) In any area administered by virtue of an order made by the Governor General under section 290A of the Government of India Act, 1935, all primary schools with their lands, buildings, records and equipment and all other properties moveable or immoveable, which were vested in, held by or under the control of, Government or a local authority in such area, for the purposes of primary education, immediately before the date on which such order was made, hereinafter in this section referred to as the said date, shall with effect from the said date, if such area has formed part of a district for which a district school board has been constituted, vest in, be held by or be under the control of the district school board, and in other cases, the Provincial Government.

26 Geo. 5 Ch. 2.

[1] This heading and section 18A were inserted by Bom. 46 of 1949, s. 6.

(*2*) During the period the properties so vest in or are held by or are under the control of the Provincial Government in any area under sub-section (*1*), it shall be lawful for the Provincial Government or such authority as it may appoint in this behalf to exercise in such area all the powers and perform all the duties of a district school board under this Act.

(*3*) All properties vesting in, held by or under the control of, the Provincial Government under this section shall, on such date as may be notified by the Provincial Government in the *Official Gazette*, vest in, be held by or be under the control of, the district school board constituted for the district in which such area is situated or such authorised municipality as the Provincial Government may specify in the notification.

(*4*) The district school board or the authorised municipality or the Provincial Government, as the case may be, shall take over and employ such primary school teachers and other persons as were employed by or under Government or a local authority immediately before the date notified under sub-section (*3*) or the said date, as the case may be for the purposes of primary education on the same terms and conditions on which such teachers or persons were employed immediately before the relevant date or on such terms and conditions as the Provincial Government may direct.

(*5*) In the event of any question, dispute or doubt arising as to whether any particular property shall so vest in or be held by or be under the control of the district school board, the authorised municipality or the Provincial Government or any particular staff shall be so taken over and employed by any of them or any terms and conditions on which such staff shall be taken over and employed, the matter shall be referred to the Provincial Government whose decision thereon shall be final.

CHAPTER IV.

NON-AUTHORIZED MUNICIPALITIES.

Exercise of powers, etc., and holding of property in respect of non-authorized municipalities.

19. (*1*) Subject to the provisions of this Act and of the rules made thereunder all properties moveable and immoveable vesting in, held by or under the control of any non-authorized municipality for the purpose of primary education shall vest in, be held by or be under the control of the district school board of the district in which it is situated or such authorized municipality as the Provincial Government may specify with the consent of the authorized municipality; and all existing and future rights, liabilities, powers and duties of any such non-authorized municipality in respect of primary school teachers and other persons employed by it for such purposes shall vest in and be performed or exercised under this Act and all approved schools within the area of such non-authorized municipality shall be controlled by the said district school board or the authorized municipality, as the case may be.

(*2*) The Provincial Government may, at any time by an order published in the *Official Gazette* together with the reasons therefor, direct that any authorized municipality shall, with effect from a date specified in this behalf, cease to be an authorized municipality ; and with effect from such date the said municipality shall be a non-authorized municipality. The provisions of sub-section (*1*) shall thereupon apply in the case of such municipality.

(*3*) If any non-authorized municipality is at any time authorized by the [1][State] Government to control all approved schools within its area, the said municipality shall thereafter be an authorized municipality. Thereupon all properties moveable or immovable vesting in, held by or under the control of a district school board or an authorized municipality for the purposes of primary education in such area shall vest in, be held by or be under the control of such first mentioned municipality ; and all existing and future rights, liabilities, powers and duties in respect of primary school teachers and other persons employed by such district school board or authorized municipality for the purposes of primary education in such area shall also vest in and be performed or exercised by the said first mentioned municipality.

CHAPTER V.

ADMINISTRATIVE MACHINERY.

District school board, authorized municipality to maintain adequate staff, pay, etc.

20. (*1*) Every district school board with the approval of the [1][State] Government and every authorized municipality shall maintain an adequate staff of Assistant Administrative Officers, Supervisors, Attendance Officers, clerks, primary school teachers and inferior servants and other staff (including engineering staff), as may in the opinion of the [1][State] Government be necessary for the administration, management and control of approved schools within its area [2][or for enabling a Primary Schools Panchayat constituted under section 36B to discharge its functions under this Act.]

(*2*) The staff maintained under sub-section (*1*) shall be servants of the district school board or of the authorized municipality as, the case may be, and shall receive their pay, allowances, [3]* * gratuities and pensions from its primary education fund. [4][Such staff maintained by a district school board shall receive their provident fund from the fund established under section 46A and the primary school teachers maintained by an authorised Municipality shall receive their provident fund from the primary education fund.]

[5][(*2A*) The rates of subscriptions and contributions and other conditions of the provident fund established by the [1][State] Government under section 46A for the members of the staff maintained by district school boards [6]* * * * shall be such as may be prescribed.]

(*3*) The rates of the pay and allowances and terms of employment in respect of [7][all the members of the staff maintained by a district school board and of the primary school teachers maintained by an authorised municipality] shall be as fixed from time to time by the [1][State] Government.

(*4*) The [1][State] Government may from time to time prescribe the duties to be performed by the staff maintained under sub-section (*1*).

Administrative Officer.

21. (*1*) For every school board there shall be an Administrative Officer. He shall be the chief executive officer of the board ; his powers and duties shall be as prescribed.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words, figures and letter were added by Bom. 67 of 1954, s. 2.
[3] The words "provident fund" were deleted by Bom. 46 of 1951, s. 2 (*1*).
[4] This portion was added by Bom. 33 of 1953, s. 2(*i*).
[5] This sub-section was inserted by Bom. 46 of 1951, s. 2(*2*).
[6] The words "and for the primary school teachers maintained by authorised municipalities" were deleted by Bom. 33 of 1953, s. 2(*ii*).
[7] These words were substituted for the words, brackets, figures and letter "the staff and teachers referred to in sub-section (*2A*)", *ibid.*, s. 2(*iii*).

(2) The Administrative Officer shall be appointed by and shall be a servant of the [1][State] Government. He shall draw his pay and allowances from the [1][State] revenues.

Delegation of power to appoint Administrative Officer to certain authorized municipalities.

22. (*1*) Notwithstanding the provisions of section 21, the [1][State] Government may by notification in the *Official Gazette* delegate the power to appoint an Administrative Officer to an authorized municipality which is a municipality constituted under the Bombay Municipal Boroughs Act, 1925, and the annual expenditure of which on primary education is not less than Rs. 1,00,000 for three financial years immediately preceding the date of the notification. The Administrative Officer so appointed shall be the servant of the authorized municipality and shall draw his pay, allowances, provident fund, gratuity and pension from its primary education fund. Bom. XVIII of 1925.

[1]This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*2*) The appointment of such Administrative Officer shall be made after inviting and considering the suggestions, if any, of the municipal school board and with the approval of [1][State] Government. No such officer shall, save with the previous sanction of the [1][State] Government, be removed from his office, reduced or suspended except by a resolution passed by at least two-thirds of the whole number of councillors of the authorized municipality.

(*3*) The qualifications, pay, allowances and terms of employment of such Administrative Officer shall be in accordance with the regulations framed by the authorized municipality with the sanction of the [1][State] Government.

Staff selection committee.

23. (*1*) There shall be a staff selection committee for every district school board or authorized municipality.

(*2*) The staff selection committee shall consist of the [2][Educational Inspector of the district] or any other officer designated by the Director, the chairman of the school board and the Administrative Officer.

(*3*) The Administrative Officer shall act as secretary of the staff selection committee.

(*4*) The committee shall select candidates for appointments as Assistant Administrative Officers, Supervisors, Attendance Officers and teachers ; and in the case of district school boards, also members of the other staff excluding inferior servants. The Committee shall also select teachers to be deputed for training. The selection of candidates and teachers shall be made in accordance with the instructions issued by the [1][State] Government.

(*5*) The school board or the authorized municipality or the Administrative Officer, as the case may be, shall make appointments of the candidates so selected in accordance with the directions given by the staff selection committee.

Powers of Administrative Officers over school board staff.

24 (*1*) The Administrative Officer shall have power, subject to such general instructions as may be issued from time to time by the Director, to promote, transfer and take all disciplinary action (including removal or dismissal) against the staff maintained under section 20.

(*2*) Any person aggrieved by an order of dismissal, removal, reduction or any other order involving disciplinary action made under sub-section (*1*), may submit an appeal to a tribunal consisting of the chairman of the school board and the [2][Educational Inspector of the district]. The tribunal shall follow the prescribed procedure for the disposal of its business. In the event of a difference of opinion between the members of the tribunal the appeal shall be referred to the Director whose decision shall be final :

Provided that a primary school teacher who is a guaranteed teacher on the date of the coming into force of this Act, may make a further appeal to the [1][State] Government against any order of removal or dismissal.

Explanation.—A guaranteed teacher means a primary school teacher who was holding a permanent appointment as such teacher on 30th June 1923.

(*3*) An appeal under sub-section (*2*) shall be made within 30 days [3][from the date on which the order appealed against was communicated to the aggrieved person].

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the words "Educational Inspector of the division" by Bom. 2 of 1955, s. 3, Second Schedule.
[3] These words were substituted for the original by Bom. 26 of 1954, s. 3.

[1][(4) Notwithstandinog anything contained in this section, the State Government may call for and examine the record of any order made by the Administrative Officer under sub-section (1) involving disciplinary action against the staff, maintained under section 20, for the purpose of satisfying itself as to the correctness or propriety of the punishment awarded under the said order and if after causing such inquiry to be made as it deems fit the State Government is of opinion that the said order should be modified, annulled or reversed, the State Government may pass such order thereon as it deems fit :

Provided that no such order shall be made by the State Government in revision to the prejudice of any person unless such person has had an opportunity of being heard in his defence.]

CHAPTER VI.

PREPARATION AND ENFORCEMENT OF THE SCHEMES OF COMPULSION.

Preparation of scheme.

25. It shall be the duty of the Administrative Officer of a district school board to prepare in accordance with the directions received from the Director in this behalf a scheme to provide compulsory primary education in such area and for children of such ages and up to such standard and within such period as the Director may specify. The Administrative Officer shall obtain the comments and suggestions of the district school board upon the scheme so prepared by him and shall submit it together with such comments and suggestions, if any, to the Director who shall forward it to the [2][State] Government with his remarks.

Preparation of scheme by authorized municipality.

26. (1) An authorized municipality may by a resolution declare its intention to provide compulsory primary education in the whole or any part of its area in the case of children of such ages and up to such standard as the municipality may decide and shall submit its proposals to the [2][State] Government through the Director in the form of a scheme.

(2) An authorized municipality, if called upon by the [2][State] Government so to do, shall within a time to be specified by the [2][State] Government submit to the Director a scheme to provide compulsory primary education in such area and in the case of children of such ages and up to such standard and within such period as the [2][State] Government may specify.

Particulars to be contained in scheme.

27. The scheme submitted under the two preceding sections shall be in the form prescribed and shall contain the following particulars:—

(a) area of compulsion ;

(b) the census of children of the ages to which the scheme shall apply classified by languages spoken by the children ;

(c) a list of existing approved schools and the schools proposed to be opened, classified by languages in which instruction is given or is proposed to be given ;

(d) a schedule of existing and proposed staff of Assistant Administrative Officers, Supervisors, Attendance Officers, clerks, teachers and inferior servants :

[1] Sub-section (4) was added by Bom. 25 of 1952, s. 5.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*e*) the recurring and non-recurring cost of the scheme and in the case of a scheme submitted by an authorized municipality the resolution of the municipality agreeing to bear its share of the additional recurring and non-recurring cost;

(*f*) if there is a non-authorized municipality within the area of compulsion, the amount of annual contribution, which the municipality according to the orders issued by the [1][State] Government under sub-section (*2*) of section 41 shall make.

Sanction of [1][State] Government to scheme.

28. (*1*) The [1][State] Government may after such inquiry as may be necessary sanction with or without modifications the scheme submitted under section 25 or 26. The scheme sanctioned shall come into effect from such date as may be notified by the [1][State] Government in the *Official Gazette*.

Bom. IV of 1923.

(*2*) Every scheme of compulsion sanctioned under the Bombay Primary Education Act, 1923, and which is in force immediately before the coming into force of this Act shall be deemed to be a scheme sanctioned under this Act.

Modification, etc., of sanctioned schemes.

29. A sanctioned scheme may with the sanction of the [1][State] Government be withdrawn or from time to time modified by an authorized municipality, or may by an order published with the reasons for making it in the *Official Gazette* be modified, cancelled or temporarily suspended by the [1][State] Government.

Power to exempt children of particular classes.

30. The [1][State] Government may by notification in the *Official Gazette* exempt children of either sex of any particular class or community in any area of compulsion or part thereof from the operation of this Act.

No fees to be charged in area of compulsion.

31. When a scheme has been sanctioned, no fee shall be charged within the area of compulsion in any school maintained by the district school board or the authorized municipality, as the case may be, in respect of any child for the standards included in the scheme.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Duty of parent to cause children to attend school.

32. In every area of compulsion, the parent of every child to whom a scheme applies shall in the absence of a reasonable excuse as hereinafter provided and if such parent and child ordinarily reside in such area cause such child to attend an approved school in such area.

Meaning of reasonable excuse.

33. A parent shall be deemed to have a reasonable excuse for failure to cause a child to attend an approved school in any of the following cases :—

(*a*) where the child is prevented from attending school by sickness, infirmity or other unavoidable cause ;

(*b*) where the child is receiving, otherwise than in an approved school, instruction which in the opinion of the school board is efficient or has received from the school board a certificate of having already completed his primary education up to the standard included in the scheme ;

(*c*) where there is no approved school within the distance fixed by the school board under section 13 or 18, as the case may be ;

(*d*) where after due application, entrance to an approved school has been refused to the child and there is no other approved school to which he can be admitted within the distance fixed under section 13 or 18, as the case may be, until such time as the parent is notified by the Administrative Officer that the child can be admitted ;

(*e*) where there is no approved school in the locality in which instruction is given in the language spoken by the child ;

(*f*) where there is no approved school in the locality to which the parent can send the child without exposing him to religious instruction to which the parent objects.

Issue of attendance order.

34. (*1*) Where the school board is satisfied that the parent of any child who is bound under the provisions of section 32 to cause such child to attend an approved school, has failed to do so, the school board after giving the parent an opportunity of being heard and after such inquiry as it considers necessary may make an order directing the parent to cause such child to attend an approved school on and from a date which shall be specified in the order.

(*2*) This power may be delegated by the school board to any of its members or to the Administrative Officer or other officer of the school board.

(*3*) Any parent aggrieved by an order made under sub-section (*1*) may, within thirty days from the date of such order, appeal to the [1][Educational Inspector of the district] who may confirm or rescind the order as he deems fit.

Penalty for failure to cause child to attend approved school.

[2][**35.** (*1*) If an order with reference to a child has been made under sub-section (*1*) of section 34 against any parent and if such parent fails to comply with the provisions of section 32 with respect to such child on or after the date specified in such order, unless such order is rescinded in an appeal made under sub-section (*3*) of the said section 34, such parent shall, on conviction, be punished with fine not exceeding two rupees ; and in case such failure continues after such conviction, he shall also be punished with fine of eight annas for every day on which the failure continues or is repeated.

(*2*) No court shall take cognizance of an offence under sub-section (*1*) except on [3][a complaint presented in person or sent by registered post] by the Administrative Officer or any other officer authorised by him in this behalf].

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[1] These words were substituted for the words " Educational Inspector of the division " by Bom. 2 of 1955, s. 3, Second Schedule.

[2] Section 35 was substituted for the original by Bom. 25 of 1952, s. 6.

[3] These words were substituted for the words " the complaint filed " by Bom. 67 of 1954, s. 3.

Penalty for employing child to whom scheme applies.

36. (*1*) Whoever knowingly takes into his employment, either on his own behalf or on behalf of any person, any child in respect of whom the provisions of section 32 apply, so as to interfere with the education or instruction of such child shall, on conviction, be liable to a fine not exceeding twenty-five rupees.

(*2*) No court shall take cognizance of an offence under this section except on [1][a complaint presented in person or sent by registered post by] the Administrative Officer or any other officer authorized by him in this behalf, and before making any complaint under this section against any person the Administrative Officer or such officer shall unless such person has been previously convicted under sub-section (*1*) cause a warning to be given to such person.

Courts competent to try offences under sections 35 and 36.

[2][**36A.** For the purpose of taking cognizance of an offence under sub-section (*1*) of section 35 against a parent or against a person under sub-section (*1*) of section 36 ;

(*1*) if such parent or person resides in a town or village where a judicial Magistrate holds his court, the court of such Magistrate,

(*2*) if such parent or person resides within the limits of the jurisdiction of a nyaya panchayat which has been empowered to take cognizance of and try such offence under sub-section (*2*) of section 37 read with clause (*f*) of section 41 of the Bombay Village Panchayats Act, 1933, such nyaya panchayat, and Bom. VI of 1933.

(*3*) if such parent or person resides elsewhere, the Primary Schools Panchayat constituted under section 36B within the limits of the jurisdiction of which such parent or person resides,

shall be the court competent to take cognizance of such offence.

Constitution of Primary Schools Panchayat; its powers and procedure.

36B. (*1*) The State Government may by notification in the *Official Gazette* constitute a Primary Schools Panchayat for the trial of offences punishable under sections 35 and 36 in the areas referred to in clause (*3*) of section 36A.

(*2*) The Primary Schools Panchayat constituted under sub-section (*1*) shall consist of three members appointed by the State Government one of whom shall be the Chairman. The qualifications of the members shall be such as may be prescribed. The members so appointed shall hold office during the pleasure of the State Government.

(*3*) Two members shall form a quorum for the disposal of the business of the Primary Schools Panchayat.

(*4*) Any vacancy of the member of the Primary Schools Panchayat shall be filled in as early as practicable :

Provided that during any such vacancy the continuing members may act as if no vacancy had occurred.

(*5*) The Primary Schools Panchayat shall, except as otherwise provided in this Act, in respect of cases relating to an offence punishable under section 35 or section 36, have the same powers and shall follow the same procedure as is followed by a nyaya panchayat in respect of such offence under Chapters VI, VII and VIII of the Bombay Village Panchayats Act, 1933, and the provisions of the said Chapters shall *mutatis mutandis* apply in respect of such cases. The court of the judicial Magistrate taking cognizance of such ohence shall try the case summarily in the manner provided in section 263 of the Code of Criminal Procedure, 1898. Bom. VI of 1933. V of 1898.

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[1] These words were substituted for the words "the complaint of" by Bom 67 of 1954, s. 4.

[2] Sections 36A to 36D were inserted *ibid.*, s. 5,

36C. Where the parent of a child has failed to cause such child to attend the approved school in pursuance of a direction given by the school board under sub-section (*1*) of section 34, the Head Master of such school shall issue a certificate to the effect that such parent has failed to cause the child to attend the approved school in compliance with such direction and such certificate shall, until the contrary is proved, be presumed to be conclusive evidence of such failure in a prosecution against the parent under section 35. Certificate of Head Master of approved school to be conclusive evidence of parent's failure to comply with section 32.

36D. Every prosecution under section 35 or 36 pending before any Court in any area on the date on which a Primary Schools Panchayat is constituted for such area under section 36B and all proceedings arising from, and incidental to, any such prosecution shall be tried, heard and determined by such Court or any other Court having jurisdiction to try, hear and determine the same, as if no such Primary Schools Panchayat had been constituted for such area.] Saving of pending proceedings.

XLV of 1860. [1][**37.** Every Administrative Officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.] Administrative Officer to be public servant.

CHAPTER VII.

APPROVED SCHOOLS.

38. The subjects, curricula, books and standards of teaching of approved schools shall be such as may from time to time be specified by the [2][State] Government. Subjects, curricula, etc., of approved schools.

39. (*1*) Every primary school, other than a primary school maintained by the [2][State] Government or by a school board or by an authorized municipality, which fulfils the conditions prescribed in this behalf shall be entitled to recognition as an approved school. Recognition of and grants to approved schools under private management.

(*2*) Such recognition shall be given by the school board or by the [2][State] Government or by an officer authorized by it in this behalf; and the manner in which grant-in-aid is to be given to such approved school shall be as prescribed.

40. (*1*) Every approved school shall be open during the school hours to inspection by the inspecting officers of the [2][State] Government for the purpose, in particular of ascertaining— Inspection of approved schools; returns.

(*a*) whether instruction is given in accordance with the provisions of section 38;

(*b*) whether the provisions of this Act for the compulsory attendance of children are being carried out;

(*c*) whether the health of the school children is satisfactory;

(*d*) whether the instruction given is not of a pernicious nature;

(*e*) whether the registers and records are being maintained as required by the Director.

(*2*) The Administrative Officer and the manager of an approved school shall furnish such returns and supply such information as the Director may from time to time require, and shall give reasonable facilities to officers appointed under sub-section (*1*) of section 48 and to any officer specially deputed under this sub-section by the Director in the discharge of their duties.

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[1] This section was substituted for the original by Bom. 36 of 1949, s 8.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

CHAPTER VIII.

FINANCIAL RELATIONS BETWEEN THE [1][STATE] GOVERNMENT AND LOCAL BODIES.

Payment to be made by district local board and non-authorized municipality.

41. (*1*) Every district local board shall pay over annually to the district school board for the purposes of primary education such portion of its income from its revenue described in clauses (*b*) and (*c*) of section 75 of the Bombay Local Boards Act, 1923, as the [1][State] Government may from time to time fix in this behalf.

Bom. VI of 1923.

(*2*) Every non-authorized municipality shall pay over annually to the district school board or the authorized municipality, as the case may be, for the purposes of primary education such proportion of the rateable value of properties in the area of the municipality as may from time to time be fixed in this behalf by the [1][State] Government and the income accruing from any funds (including trust funds) held, and all moneys received by it for the said purposes.

Contribution by [1][State] Government.

42. (*1*) If a scheme submitted by an authorized municipality is sanctioned under section 28, the [1][State] Government shall bear half of the additional recurring and non-recurring annual cost of the scheme so sanctioned; but the liability of the [1][State] Government shall not exceed half of the said cost, as it was estimated by the authorized municipality.

(*2*) Nothing in this section shall affect the claim of any authorized municipality to any annual grant which at the time this Act comes into force is being paid to it as a local authority under the Bombay Primary Education Act, 1923, by the [1][State] Government for the purposes of primary education :

Bom. IV of 1923.

Provided that, if the [1][State] Government considers that the primary education fund of any authorized municipality has been or is about to be misused or misapplied, it may call upon such authorized municipality for an explanation of such misuse or misapplication; and if not satisfied with the explanation given may make such reduction in the grants payable to such authorized municipality as it may deem proper.

(*3*) The [1][State] Government shall pay to a district school board a grant equivalent to the amount by which expenditure in accordance with the budget sanctioned under the next following section exceeds the receipts referred to in clauses (*b*) to (*d*) and (*g*) of sub-section (*2*) of section 44.

District school board budget.

43. The budget of the district school board shall in the prescribed manner be framed and submitted to the [1][State] Government and the [1][State] Government may sanction it with such modifications as it may deem fit to make therein.

Primary education fund.

44. (*1*) A fund called the primary education fund shall be maintained by every district school board and by every authorized municipality.

(*2*) The following shall form part of, or be paid into, the primary education fund :—

Bom. IV of 1923.

(*a*) the balance of the primary education fund maintained under section 8A of the Bombay Primary Education Act, 1923;

(*b*) the contributions payable by non-authorized municipalities under sub-section (*2*) of section 41;

(*c*) fees and fines received in respect of primary schools maintained by the school board or the authorized municipality, as the case may be;

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*d*) in the case of a district school board, such portion of the income of the district local board as the [1][State] Government may fix under sub-section (*1*) of section 41;

(*e*) in the case of an authorized municipality, the grant paid or payable by the authorized municipality on account of primary education;

(*f*) the grant paid or payable by the [1][State] Government on account of primary education;

(*g*) such other sums as may from time to time be received on account of primary education.

Explanation.—For the purposes of clause (*e*) the grant payable by an authorized municipality shall be the amount of expenditure on account of primary education in any year less the grant paid by the [1][State] Government in that year, and fees and sums of money from other sources of income belonging to the fund.

Application of primary education fund.

45. (*1*) The primary education fund shall stand in the name of the school board and shall, subject to the provisions of this Act, be applied for the purposes specified therein and for such other purposes as may be prescribed.

(*2*) The fund shall be maintained, administered and used in the manner prescribed.

Deposit of primary education fund.

46. (*1*) The primary education fund shall be kept in the Government treasury or in the bank to which the Government treasury business has been made over or in such other bank or co-operative society registered or deemed to have been registered under the Bombay Co-operative Societies Act, 1925, as may be approved by the [1][State] Government. Bom. VII of 1925.

(*2*) It shall be lawful for the school board to invest such portion of the primary education fund as is not likely to be immediately required in post office cash certificates or in securities of the Central Government or any [State] Government.

(*3*) Every investment in Government securities shall be made through the Reserve Bank of India or any other bank approved by the [State] Government in this behalf.

Provident fund.

[2]**46A.** (*1*) The State Government shall establish a provident fund (hereinafter called the said fund) for the staff maintained by district school boards [3]* * * *

(*2*) Any provident fund established and maintained by a district school board [4][for such staff] before the date of the coming into force of the Bombay Primary Education and Housing Board (Amendment) Act, 1951, shall be merged into and form part of the said fund and the district school board [5]* * * * concerned shall as soon as may be after the said date transfer from its primary education fund to the said fund a sum equal to the total amount standing to the credit of all the subscribers or depositors in the provident fund till the date of such transfer: Bom. XLVI of 1951.

Provided that in the event of any doubt arising as to the amount to be so transferred by any district school board [6]* * * from its primary education fund to the said fund, the matter shall be referred to the State Government or any officer authorised by it in this behalf, whose decision shall be final.

(*3*) The district school board [5]* * * concerned shall, in respect of each of its employees who is a subscriber to the said fund, pay into the said fund such portion of the contribution in such manner as the State Government may, from time to time, determine.]

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] This section was inserted by Bom. 46 of 1951, s. 3.

[3] The words "or for the primary school teachers maintained by authorized municipalities" were deleted by Bom. 33 of 1953, s. 3.

[4] These words were substituted for the words "or an authorized municipality for such staff or teachers, as the case may be," *ibid.*

[5] The words "or the authorized municipality" were deleted, *ibid.*

[6] The words "or authorised municipality" were deleted, *ibid.*

Payment of travelling allowances to chairman, vice-chairman and members of school board.

47. The Chairman, vice-chairman and members of the school board may be paid allowances for expenses incurred by them in travelling for the purposes of the business of the school board at such rates and subject to such conditions as may be prescribed.

CHAPTER IX.

CONTROL.

Inspecting staff.

48. (*1*) The [1][State] Government may appoint such officers (including inspecting officers) as it may deem necessary for the purposes of superintendence and inspection and generally for the purposes of giving effect to the provisions of this Act.

(*2*) The officers apppointed under sub-section (*1*) shall be the servants of the [1][State] Government, and their powers and duties shall be such as may be prescribed.

Inspecting officers to be present at school board meetings.

49. (*1*) An inspecting officer nominated by the Director in this behalf shall have the right of being present at any meeting of the school board, and with the consent of the chairman, of taking part in the discussions thereat, but he shall not be entitled to vote upon, or move any resolution, at such meeting.

Powers of supervision.

(*2*) The Director or Educational Inspector [2][of the district] or any officer authorized by a general or special order of the [1][State] Government may—

(*a*) (*i*) enter on and inspect any immoveable property occupied for any purpose connected with primary education by a school board or authorized municipality or any educational institution under its control or management; or

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were inserted by Bom. 2 of 1955, s. 3, Second Schedule.

(*ii*) cause such property or institution to be entered upon and inspected by any other person authorized by him in this behalf;

(*b*) call for any extract from the proceedings of any authorized municipality or school board, or of any committee appointed by any of them relating to any matter connected with primary education; or

(*c*) call for and inspect any book or document relating to any matter connected with primary education in the possession or under the control of an authorized municipality or school board.

Power to call for return or require explanation, etc.

50 The Director may—

(*a*) call for from any authorized municipality or school board or Administrative Officer any return, statement, account or report relating to any matter connected with primary education,

(*b*) call upon an authorized municipality or school board to take into consideration any objection which appears to him to exist to the doing of anything connected with primary education which is about to be done by such municipality or board or any information furnished by him which appears to him to necessitate the doing of a certain thing by such municipality or board and to make a written reply to him within a reasonable time, stating in case of disagreement with the Director its reasons for not desisting from doing or for not doing such a thing.

Power of suspending execution of orders, etc. of school board.

51. (*1*) If, in the opinion of the Director, the execution of any order or resolution of a school board or the doing of anything which is about to be done or is being done by or on behalf of the board is in excess of the powers conferred by, or contrary to, this Act or the rules or regulations made thereunder, or is otherwise unlawful, he may, by order in writing under his signature, suspend the execution or prohibit the doing thereof.

(*2*) When the Director makes an order under sub-section (*1*), he shall forthwith forward to the board affected by it a copy of such order with a statement of the reasons for making it.

(*3*) The Director shall forthwith submit to the Provincial Government a report of every case occurring under this section and the Provincial Government may annul, confirm, revise or modify any order made therein and make in respect thereof any other order:

Provided that no order of the Director passed under this section shall be confirmed, revised or modified by the Provincial Government without giving the board reasonable opportunity of showing cause against the said order.

Default by authorized municipality

52. (*1*) If any authorized municipality when called upon makes default in preparing a scheme or after a scheme has been sanctioned omits to make adequate provision for compulsory primary education in accordance with a scheme as sanctioned and to bring into operation or continue to keep in operation such scheme, the Provincial Government may after due inquiry appoint a person to prepare the scheme or bring it into operation or to continue to keep it in operation, as the case may be, and the expense thereof shall be paid by the authorized municipality to the Provincial Government

(*2*) If the expense is not so paid the Provincial Government may make an order directing any person who has for the time being custody of any moneys on behalf of the authorized municipality either as banker or in any relation to pay such expense from such moneys as he may have in his hands or may from time to time receive and such person shall be bound to obey such order.

Power of Provincial Government to provide for performance of duties on default by school board.

53. (*1*) When the Provincial Government is informed that a school board has made a default in performing any duty imposed on it by or under this Act or by or under any enactment for the time being in force, the Provincial Government may, if it is satisfied after such inquiry as it may think fit, that the school board has been guilty of such default, by an order in writing direct the school board to perform the duty within a period fixed for the performance of that duty :

Provided that no such order shall be made unless the school board has been given an opportunity to show cause why such order should not be made.

(*2*) If such a duty is not performed within the period so fixed, the Provincial Government may appoint some person to perform it and may direct that the expenses of performing it with a reasonable remuneration to the person appointed to perform it shall be paid within such time as it may fix to such person by the school board or as the Provincial Government may direct.

(*3*) If the expenses and remuneration are not paid, the Provincial Government may make an order directing the officer in charge of the treasury or bank or society in which the primary education fund is kept or the whole or portion thereof is deposited or lent at interest, to pay such expense and remuneration from such moneys as may be standing to the credit of the school board in such treasury or bank or society or as may from time to time be received from or on behalf of the school board by way of deposit by such treasury or bank or society ; and such officer or bank or society shall be bound to obey such order. Every payment made in pursuance to such order shall be a sufficient discharge to such officer, bank or society from all liabilities to the school board in respect of any sum or sums so paid by him or it out of the moneys so received or standing to the credit of the school board in such treasury, bank or society.

Directions by Provincial Government.

54. Notwithstanding anything contained in this Act, the Provincial Government shall have power to give to a district school board all such directions as it may consider necessary in regard to any matter connected with primary education and the district school board shall comply with such directions.

Enquiry into affairs of school board

55. (*1*) The Provincial Government may, from time to time, cause enquiry to be made by any of its officers in regard to any authorized municipality or school board on matters connected with primary education concerning them or any matters with respect to which the sanction, approval, consent or order of the Provincial Government is required by or under this Act.

(*2*) The officer holding such enquiry shall have the powers of a court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witnesses and the production of documents for the purposes of the enquiry. V of 1908.

(*3*) The Provincial Government may make orders as to the costs of any enquiries made under sub-section (*1*) and as to the party by whom and the funds out of which they shall be paid, and such order may, on the application of the Provincial Government or of any person named therein be executed as if it were a decree of a civil court.

Dissolution or supersession of school board in certain circumstances.

56. (*1*) If in the opinion of the Provincial Government a school board is not competent to perform or is not properly performing the duties imposed on it by or under this Act or the rules or regulations made thereunder or exceeds or abuses its powers, or is acting or has acted contrary to the provisions of this Act or the rules or regulations made thereunder, it may, by an order published in the *Official Gazette* with the reasons for making it either—

(*a*) dissolve the Board, or

(*b*) supersede it for a period to be specified in the order.

(2) When the school board is dissolved or superseded, the following consequences shall ensue :—

(*a*) all members of the board shall in the case of supersession as from the date of the order of supersession, and in the case of dissolution as from the date specified in the order of dissolution, be deemed to have vacated their offices as such members ;

(*b*) all powers and duties of the board shall, during the period of dissolution or supersession, be exercised and performed by such person or persons as the [1][State] Government may from time to time appoint in this behalf ;

(*c*) the person or persons appointed under clause (*b*) may delegate their powers and duties to any individual or committee or sub-committee.

(3) On the issue of an order of dissolution under sub-section (*1*) election of members shall be held under the provisions of this Act or of the rules made thereunder on or before the date to be specified by the [1][State] Government and the board shall be re-established by the election, appointment or nomination of members under the aforesaid provisions on such date as may be specified by the [1][State] Government.

(4) If, after enquiry made, the [1][State] Government so directs, the period of supersession with all the consequences aforesaid shall, from time to time, be continued by an order published as aforesaid until such date as may be fixed by the [1][State] Government for the re-establishment of the board.

(5) After the board is superseded it shall be re-established by election, appointment or nomination of members under the provisions of this Act or the rules made thereunder applicable thereto—

(*a*) if no direction has been made under sub-section (*4*) on the expiration of the period specified in the order of supersession under clause (*b*) of sub-section (*1*), and

(*b*) if a direction has been made under sub-section (*4*) on such date as is fixed under that sub-section for the re-establishment of the school board.

Dissolution of district school board and its re-constitution on alteration of limits of district.

57. (*1*) When during the term of office of the members of a district school board the limits of the district are on account of the formation of a new district under the Bombay Land Revenue Code, 1879, or for any other reason altered, the [1][State] Government may, by order published in the *Official Gazette*, dissolve such board from a date specified in the order and direct a district school board—

Bom. V of 1879.

(*i*) to be reconstituted for the district of which the district school board has been dissolved, or

(*ii*) to be established for a new district which has been constituted.

The members of the district school board which has been dissolved shall vacate their offices from the date specified in the order.

(2) The district school board reconstituted or established under the provisions of sub-section (*1*) shall consist of such number of members elected, appointed or nominated in such manner as the [1][State] Government may by order in writing direct. The chairman and vice-chairman of the district school board so reconstituted or established shall be elected in the manner provided in this Act and the rules made thereunder.

(3) The members of a district school board reconstituted or established under the provisions of sub-section (2) shall hold office for such period, not exceeding [2][three years] as the [1][State] Government shall by order specify.

(4) On the expiry of the period of office of the members of a district school board under the provisions of sub-section (3), the district school board shall be constituted in the manner provided in section 4.

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[1]This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2]These words were substituted for the words "one year" by Bom. 25 of 1952, s. 7.

CHAPTER X.

[1][STATE] BOARD OF PRIMARY EDUCATION.

Constitution of [1][State] Board of Primary Education.

58. (*1*) There shall be a [1][State] Board of Primary Education, consisting of twelve members, of whom six shall be elected by the school boards in the manner prescribed. The remaining six, of whom not more than three shall be Government officers, shall be appointed by the [1][State] Government.

(*2*) The members of the said board shall hold office for a period of three years :

Provided that the term of office of the out-going members shall be deemed to extend to and to expire with the date on which their successors are elected or appointed, as the case may be.

(*3*) Any member of the said board may resign his seat at any time by giving notice thereof in writing to the president ; and such member shall be deemed to have vacated his seat as soon as the president has received his resignation.

(*4*) Any member of the said board who absents himself from three consecutive meetings of the board without its [2]* permission shall cease to be a member of the board.

(*5*) The [1][State] Government may on its own motion or on the recommendation supported by a resolution passed by at least two-thirds of the whole number of members of the said board remove any member of the said board if such member has been guilty of misconduct in the discharge of his duties or any disgraceful conduct or has become incapable of performing his duties as a member by reason of any physical or mental infirmity :

Provided that no such member shall be so removed nor shall any resolution recommending the removal of any member be passed unless the member to whom it relates has been given a reasonable opportunity of showing cause why he should not be so removed or why such recommendation should not be made.

(*6*) The elected members of the said board shall be persons having any of the following qualifications :—

(*a*) a graduate of seven years' standing of any recognised University ;

(*b*) a professor who has served as such for a period of five years in a college affiliated to a statutory University in the [3][State] of Bombay ;

(*c*) a headmaster who has served as such for ten years in an approved school or high school recognised by the Department of Education of the [1][State] Government.

(*7*) The said board shall elect its president from amongst its own members and his term of office shall be co-extensive with that of the board. Of the members appointed by the [1][State] Government, one member selected by the [1][State] Government and belonging to the Department of Education shall act as Secretary to the board.

(*8*) Casual vacancies during the term of the said board shall be filled for the remaining period by election or appointment as the case may be.

Powers and duties of [1][State] Board.

59. The powers and duties of the said board shall be as follows, namely :—

(*a*) to examine and recommend schemes for the organization, co-ordination and expansion of primary education and for the correlation of primary education with the system of education as a whole in the [3][State] ;

(*b*) to advise the [1][State] Government generally on all matters connected with primary education ;

(*c*) to exercise such other powers and to perform such other duties as may be prescribed.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] The word "previous" was deleted by Bom. 46 of 1949, s. 9.
[3] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

CHAPTER XI.

MISCELLANEOUS.

Delegation.

[1][**60.** (*1*) Subject to such conditions, if any, as may be specified,—

(*i*) the State Government may delegate any of its powers or duties under this Act or the rules made thereunder to any officer or authority subordinate to it; and

(*ii*) the Director may also, with the previous sanction of the State Government, delegate any of his powers or duties under this Act or the rules made thereunder or delegated to him by the State Government under clause (*i*) to any officer subordinate to him.

(*2*) Nothing in this section shall derogate from the right of the State Government or the Director to exercise any or all of the powers or duties hereby delegated by it or him, as the case may be, to any subordinate officer or authority.]

Delegation by authorized municipalities and school boards of their powers duties and functions.

61. (*1*) Subject to the provisions of this Act and the rules made thereunder, an authorized municipality may delegate any of its powers, duties and functions under this Act to the municipal school board.

(*2*) (*a*) A school board may from time to time constitute committees and discontinue or alter the constitution of such committees.

(*b*) The school board may delegate any of its powers, duties and functions to any such committee or to any member or Administrative Officer or stipendiary or any other officer of the board; and such committee, member or officer shall conform to any instructions that may from time to time be given by the board.

(*3*) The authorized municipality or the school board may at any time withdraw any of the powers, duties and functions so delegated.

Limitation of suits.

62. (*1*) No suit, prosecution or other legal proceeding shall be commenced against any school board or authorized municipality or a servant thereof or any person acting under the orders, of the said board or municipality for anything done, or purporting to have been done in pursuance of this Act, which entitles or requires a school board, authorized municipality, member, officer, servant as such or other person so acting to exercise any powers or perform duties without giving to such school board, authorized municipality, member, officer, servant or person one month's previous notice in writing of the intended action and of the cause thereof, or after six months from the date of the act complained of.

(*2*) In the case of any such suit for damages if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount as tendered, and shall pay all costs incurred by the defendant after such tender.

Power to make rules.

63. (*1*) The [2][State] Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters :—

(*a*) the manner of election of the chairman, vice-chairman and the members of a school board;

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[1] Section 60 was substituted for the original by Bom. 25 of 1952, s. 8.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*b*) the duties and functions of the chairman and the vice-chairman ;

(*c*) procedure for the conduct of school board's business [1][and school committees for non-authorised municipalities] ;

(*d*) procedure for sanctioning tenders ;

(*e*) the constitution and functions of village school committees ;

[2][(*ee*) provident funds, gratuities and pensions for the primary school teachers maintained by an authorised municipality ;]

[3][(*f*) the rates of subscriptions and contributions and other conditions of the provident fund established for the staff maintained by district school boards [4]* * * * * ;

(*fa*) the conditions of gratuities and pensions for the staff [5]* * referred to in clause (*f*) ;]

(*g*) provision for the welfare of the children attending primary schools including provision for the care of their health and for the physical and moral training ;

(*h*) pre-vocational courses as a part of upper primary courses ;

(*i*) regulation of the delegation of powers, duties and functions under this Act ; and

(*j*) matters to be prescribed under this Act.

(*3*) Rules made under sub-sections (*1*) and (*2*) shall be made after previous publication.

Repeal and transitory provision relating to school boards.

64. The Bombay Primary Education Act, 1923, is hereby repealed : Bom. IV of 1923.

Provided that until a new school board is constituted under section 4, any existing school board under the Bombay Primary Education Act, 1923, shall exercise all the powers and perform all the duties and functions and shall be subject to all the rights and liabilities as if it is constituted under this Act. Bom. IV of 1923.

Act to prevail over provisions of certain other Acts.

65. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in the provisions relating to primary education in the Bombay District Municipal Act, 1901, the Bombay Local Boards Act, 1923, and the Bombay Municipal Boroughs Act, 1925. Bom. III of 1901. Bom. VI of 1923. Bom. XVIII of 1925.

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[1] These words were added by Bom. 25 of 1952, s. 9.
[2] Clause (*ee*) was inserted by Bom. 33 of 1953, s. 4 (*i*).
[3] These clauses were substituted for the original clause (*f*) by Bom. 46 of 1951, s. 4.
[4] The words "and primary school teachers maintained by authorized municipalities" were deleted by Bom. 33 of 1953, s. 4 (*ii*).
[5] The words "and teachers" were deleted, *ibid*, s. 4 (*iii*).

THE BOMBAY PREVENTION OF FRAGMENTATION AND CONSOLIDATION OF HOLDINGS ACT, 1947.

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BOMBAY ACT No. LXII OF 1947.[1]

[THE BOMBAY PREVENTION OF FRAGMENTATION AND CONSOLIDATION OF HOLDINGS ACT, 1947.]

[*29th January 1948*]

Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 31 of 1951.
,, ,, ,, 69 of 1953.

An Act to provide for the prevention of fragmentation of agricultural holdings and for their consolidation.

WHEREAS it is expedient to prevent the fragmentation of agricultural holdings and to provide for the consolidation of agricultural holdings for the purpose of the better cultivation thereof; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947.

(*2*) It extends to the whole of the [2][State] of Bombay.

(*3*) It shall come into force in such areas and on such date as the [3][State] Government may by notification in the *Official Gazette* direct.

Definition

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) "agricultural year" means the year commencing on the first day of April;

(*2*) "consolidation of holdings" means the amalgamation and where necessary the redistribution of holdings or portions of holdings in any village, mahal or taluka or any part thereof so as to reduce the number of plots in holdings;

(*3*) "Consolidation Officer" means an officer appointed as such under section 15 by the [3][State] Government, and includes any person authorized by the [3][State] Government to perform all or any of the functions of the Consolidation Officer under this Act:

[4][(*3A*) "Co-operative Society" means a co-operative society registered or deemed to be registered under the Bombay Co-operative Societies Act, 1925;]

Bom. VII of 1925.

(*4*) "fragment" means a plot of land of less extent than the appropriate standard area determined under this Act:

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion;

(*5*) "land" means agricultural land whether alienated or unalienated;

(*6*) "local area" means any area notified as such in the *Official Gazette* under section 3;

(*7*) "Mamlatdar" shall include a Mahalkari;

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1946, Part V, page 139; for Report of the Select Committee, *see ibid*, 1947, Part V, page 195; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X and Vol. XI; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XIII.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Provincial", *ibid*.

[4] This clause was inserted by Bom. 69 of 1953, s. 2.

(*8*) "Owner" means in the case of unalienated land the occupant and when such land has been mortgaged, owner means the mortgagor; in the case of alienated land owner means the superior holder;

(*9*) "prescribed" means prescribed by rules made under this Act;

(*10*) "standard area" in respect of any class of land means the area which the [1][State] Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular local area, and includes a standard area revised under the said section;

(*11*) words and expressions used in this Act, but not defined have the meaning assigned to them in the Bombay Land Revenue Code, 1879. Bom. V of 1879.

CHAPTER II.

DETERMINATION OF LOCAL AND STANDARD AREAS AND TREATMENT OF FRAGMENTS.

termination of local area.

3. The [1][State] Government may, after such inquiry as it deems fit, by notification in the *Official Gazette*, specify a village, mahal or taluka or any part thereof as a local area for the purposes of this Act.

Settlement of standard areas.

4. (*1*) The [1][State] Government may, after such inquiry as it deems fit and after consultation with the District Advisory Committee appointed by it, provisionally settle for any class of land in any local area the minimum area that can be cultivated profitably as a separate plot.

(*2*) The [1][State] Government shall by notification in the *Official Gazette* and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (*1*) and invite objections thereto.

Determination and revision of standard areas.

5. (*1*) The [1][State] Government shall, after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (*2*) of section 4 in the village concerned and making such further inquiry as it may deem fit, determine the standard area for each class of land in such local area.

(*2*) The [1][State] Government may, at any time, if it deems it expedient so to do, revise a standard area determined under sub-section (*1*). Such revision shall be made in the manner laid down in section 4 and sub-section (*1*).

(*3*) The [1][State] Government shall, by notification in the *Official Gazette* and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (*1*) or revised under sub-section (*2*).

Entry in the Record of Rights.

6. (*1*) On notification of a standard area under sub-section (*3*) of section 5 for a local area all fragments in the local area shall be entered as such in the Record of Rights or where there is no Record of Rights in such village record as the [1][State] Government may prescribe.

(*2*) Notice of every entry made under sub-section (*1*) shall be given in the manner prescribed for the giving of notice under the Bombay Land Revenue Code, 1879, of an entry in the register of mutations. Bom. V of 1879.

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1 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Transfer and lease of fragments.

7. (*1*) No person shall transfer any fragment in respect of which a notice has been given under sub-section (*2*) of section 6 [1][except to the owner of] a contiguous survey number or recognised sub-division of a survey number:

[2][Provided that the holder of such fragment may mortgage or transfer it to the State Government or a land mortgage bank or any other co-operative society as security for any loan advanced to him by the State Government or such bank or society, as the case may be.]

Bom. XXIX of 1939.

(*2*) Notwithstanding anything contained in the Bombay Tenancy Act, 1939, no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

Fragmentation prohibited.

8. No land in any local area shall be transferred or partitioned so as to create a fragment.

Sections 7 and 8 not to apply to transfer for public purpose.

[3][**8A.** Nothing in sections 7 and 8 shall apply to a transfer of any land for such public purpose as may be specified in this behalf by the State Government by notification in the *Official Gazette*.]

Penalty for transfer or partition contrary to provisions of Act.

9. (*1*) The transfer or partition of any land contrary to the provisions of this Act shall be void.

(*2*) The owner of any land so transferred or partitioned shall be liable to pay such fine not exceeding Rs. 250 as the Collector may, subject to the general orders of the [4][State] Government, direct. [5][Such fine shall be recoverable as an arrear of land revenue.]

[6][(*3*) Any person unauthorizedly occupying, or wrongfully in possession of, any land, the transfer or partition of which, either by the act of parties or by the operation of law, is void under the provisions of this Act, may be summarily evicted by the Collector.]

Transfer of fragment to [9][Government]

10. (*1*) Any owner of a fragment may transfer it to the [7][State Government] on [8][payment by the State Government] of such compensation to persons possessing interest therein as the Collector may determine and thereupon the fragment shall vest absolutely in the [6][State Government] free from all encumbrances.

Bom. V of 1879.

(*2*) Any such fragment may be disposed of in accordance with the provisions of section 117-B of the Bombay Land Revenue Code, 1879.

V of 1908.

Partition of estate assessed to payment of revenue to [9][Government] or seperation of share thereof.

11. When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908, for the partition of an undivided estate assessed to the payment of revenue to the [9][Government] in any local area for which standard areas have been fixed, or for the separate possession of a share of such an estate, no such partition or separation shall be made so as to create a fragment.

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[1] These words were substituted for the words "unless thereby the fragment becomes merged in" by Bom. 69 of 1953, s. 3 (*1*).
[2] This proviso was added, *ibid*, s. 3 (*2*).
[3] Section 8A was inserted, *ibid*, s. 4.
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] These words were added, by Bom. 69 of 1953, s. 5(*1*).
[6] This sub-section was added *ibid*, s. 5 (*2*).
[7] These words were substituted for the words "Crown for the purposes of the Province" by the Adaptation of Laws Order, 1950.
[8] These words were substituted for the words "payment by the Crown", *ibid*.
[9] This word was substituted for word "Crown", *ibid*.

Determination of compensation for purpose of section 10.

12. In determining the compensation for the purposes of section 10 the Collector shall have regard to the provisions of sub-section (*1*) of section 23 of the Land Acquisition Act, 1894. I of 1894

Amendment of sections 117A and 117B of Bom. V of 1879.

13. In sections 117A and 117B of the Bombay Land Revenue Code, 1879, the following shall be inserted at the commencement of the said sections, namely :— Bom. V of 1879.

"Subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947,". Bom. LXII of 1947

Fragment not to be sold at Court sale or created by such sale.

[1]**[14.** Notwithstanding anything contained in any law for the time being in force, no fragment, in respect of which a notice has been given under sub-section (*2*) of section 6, shall be sold at any sale held under the orders of any Court except to the owner of a contiguous survey number or recognized sub-division of a survey number and no land shall be sold at such sale so as to leave a fragment.]

CHAPTER III.

PROCEDURE FOR CONSOLIDATION.

Government may of its own accord or on application declare its intention to make schome for consolidation of holdings.

15. With the object of consolidating holdings in any village, mahal or taluka or any part thereof for the purpose of better cultivation of lands therein, the [2][State] Government may declare by a notification in the *Official Gazette* and by publication in the prescribed manner in the village or villages concerned its intention to make a scheme for the consolidation of holdings in such village or villages or part thereof as may be specified. On such publication in the village concerned the [6][State] Government may appoint a Consolidation Officer who shall proceed to prepare in the prescribed manner a scheme for the consolidation of holdings in such village or villages or part thereof, as the case may be.

Scheme to provide for compensation.

16. (*1*) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

(*2*) The amount of compensation shall be determined, so far as practicable, in accordance with the provisions of sub-section (*1*) of section 23 of the Land Acquisition Act, 1894. I of 1894.

Amalgamation of public roads, etc., within scheme for consolidation of holdings.

17. (*1*) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane or path with any holding in the scheme, he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane or path shall be extinguished or, as the case may be, transferred to a new road, street, lane or path laid out in the scheme of consolidation.

(*2*) The declaration in sub-section (*1*) shall be published in the village concerned in the prescribed manner along with the draft scheme referred to in section 19.

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[1] This section was substituted for the original by Bom. 69 of 1953, s. 6.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*3*) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane or path or having any other interest or right which is likely to be adversely affected by the proposal may, within thirty days after the publication of the declaration under sub section (*1*) state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right :

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane or path shall be entertained.

(*4*) The Consolidation Officer shall, after considering the objections, if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary to the Settlement Commissioner, together with the objections received, his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Commissioner on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall, subject to any modification made by the [1][State] Government, be final.

Revocation of assignments of lands.

18. Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer to direct that any land specifically assigned for any public purpose shall cease to be so assigned and to assign any other land in its place.

Publication of draft scheme.

19. (*1*) When the draft scheme of consolidation is ready for publication, the Consolidation Officer shall publish it in the prescribed manner in the village or villages concerned. Any person likely to be affected by such scheme, shall, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating to the scheme. The Consolidation Officer shall, after considering the objections, if any received, submit the scheme with such amendments as he considers to be necessary, together with his remarks on the objections, to the Settlement Commissioner.

(*2*) The Consolidation Officer shall also publish the scheme as amended by him.

Confirmation of scheme.

20. (*1*) If within thirty days of its publication no objections are received to the draft scheme published under sub section (*1*) or the amended draft scheme published under sub-section (*2*) of section 19, as the case may be, the Settlement Commissioner shall confirm the scheme.

(*2*) If any objections are received to the amended draft scheme published under sub-section (*2*) of section 19, the Settlement Commissioner shall after taking the objections into consideration submit it with such modifications as he considers necessary to the [1][State] Government.

[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

(*3*) The [1][State] Government may either confirm the scheme with or without modifications or refuse to confirm it :

Provided that the [1][State] Government shall, if the scheme has been modified by the Settlement Commissioner under sub-section (*2*) publish it as so modified, and take into consideration the objections, if any, received within thirty days of such publication before acting under this sub-section.

Right to possession of new holdings.

21. [2][(*1*) Upon the confirmation of the scheme under sub-section (*1*) or (*3*) of section 20, a notification stating that the scheme has been confirmed shall be published in the *Official Gazette* and the scheme as confirmed shall be published in the prescribed manner in the village or villages concerned. If two-thirds or more of the owners affected by such scheme agree to enter into possesion of the holdings allotted to them thereunder, the Consolidation Officer may allow all the owners to enter into such possession forthwith or from such date as may be specified by him.

(*2*) If two-thirds or more of such owners do not agree to enter into possession under sub-section (*1*), all the owners shall be entitled to possession of the holdings allotted to them under the scheme from the commencement of the agricultural year next following the date of publication of the notification in the *Official Gazette* under sub-section (*1*).

(*2A*) In enforcing the provisions of sub-section (*1*) or (*2*), the Consolidation Officer shall, if necessary, put the owners in possession of the holdings to which they are entitled under the scheme and for doing so may, in the prescribed manner, evict any person from any land.]

(*3*) Notwithstanding anything contained in sub-section (*2*) no owner shall be entitled to possession of any holding allotted to him under the scheme unless he deposits in the prescribed manner within fifteen days of the commencement of the said agricultural year such compensation as is recoverable from him under the scheme.

(*4*) Where an owner fails to comply with the provisions of sub-section (*3*) his rigth in such holding may be allotted in the prescribed manner by the Consolidation Officer to any other person who pays the value of the holding, and in such case the value realised after deducting the expense (hereinafter called the net value) shall be paid to the owner and any other person having an interest in the holding.

[3][(*5*) If no person is forthcoming to pay the value of the holding, the State Government may recover from the owner the compensation recoverable from him under the scheme as an arrear of land revenue or the State Government may itself purchase the holding after paying the net value of the holding to the owner and any other person having interest in the holding.]

Coming into force of scheme.

22. As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force.

Certain laws no ban on transfer of holdings.

23. Notwithstanding anything contained in any law for the time being in force, the rights of owners, or other persons having interest, shall for the purpose of giving effect to any scheme of consolidation affecting them be transferable by exchange or otherwise.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[2] Sub-sections (*1*), (*2*) and (*2A*)' were substituted for the original sub-sections (*1*) and (*2*) by Bom. 69 of 1953, s. 7 (*1*).

[3] Sub-section (*5*) was added, *ibid*, s. 7 (*2*).

Certificate of transfer.

24. (*1*) The Consolidation Officer shall grant to every owner to whom a holding has been allotted in pursuance of a scheme of consolidation and to every person to whom a right is allotted under sub-section (*4*) of section 21, a certificate in the prescribed form duly registered under the Indian Registration Act, 1908, to the effect that the holding has been transferred to him in pursuance of the scheme.

XVI of 1908.

(*2*) Notwithstanding anything contained in any law for the time being in force no stamp or registration fee shall be payable in respect of such certificate.

Loans to assist consolidation.

25. For carrying out any of the purposes of this Act, a loan may be granted to an owner and recovered from him as a loan under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884.

XIX of 1883. XII of 1884.

CHAPTER IV.

Effect of Consolidation Proceedings and of Consolidation of Holdings.

Exercise by Consolidation Officer of powers under certain Acts.

26. (*1*) During the continuance of the consolidation proceedings the Consolidation Officer shall exercise and discharge the functions of a revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939; and no revenue officer other than the Consolidation Officer shall take any proceedings under any of the said Acts in respect of any holding or land for the consolidation of which a notification has been issued under section 15.

Bom. V of 1879. Bom. II of 1906. Bom. XXIX of 1939.

(*2*) Where in respect of any holding the Consolidation Officer proceeds to prepare a scheme under section 15—

(*a*) all applications and proceedings including execution proceedings pending before any revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939, in respect of any holding or land for the consolidation of which a notification has been issued under section 15 shall be transferred to the Consolidation Officer; and

Bom. V of 1879. Bom. II of 1906. Bom. XXIX of 1939.

(*b*) the Consolidation Officer shall, by proclamation, call upon all persons who claim to be entitled to possession under any of the said Acts of any holding for the consolidation of which a notification has been issued under section 15 to make within the prescribed period an application to be put in possession of such holdings; and any person who fails to do so within the prescribed period shall thereafter be debarred from making it:

Provided that nothing in this clause shall debar any person from making, after the coming into force of a scheme of consolidation under section 22, any application in respect of any holding included in the scheme, if such application could lie under the provisions of any law for the time being in force.

(*3*) The Consolidation Officer shall submit any order passed by him under any of the said Acts to the Collector for confirmation if an application in that behalf is made to him by any party to a proceeding under this section within fifteen days from the date of the order.

Stay of [2][certain proceedings]; ban on transfer of land during continuance of consolidation proceedings.

27. When a Consolidation Officer proceeds to prepare a scheme under section 15, during the continuance of the consolidation proceedings—

[1][(*a*) no proceedings,—

(*i*) under section 153 or 155 of the Bombay Land Revenue Code, 1879; Bom. V of 1879.

(*ii*) for execution of any award made under the Bombay Co-operative Societies Act, 1925; Bom. VII of 1925.

(*iii*) for execution of any award made under the Bombay Agricultural Debtors Relief Act, 1947; or Bom. XXVIII of 1947.

(*iv*) for execution of any decree passed by a Civil Court,

in respect of any land in respect of which a notification has been issued under section 15 shall be commenced; and all such proceedings if commenced shall be stayed;]

(*b*) no person shall transfer any land in respect of which a notification under section 15 has been issued.

Rights in holdings.

28. Every owner to whom a holding is allotted in pursuance of a scheme of consolidation shall [3][, save as otherwise provided in section 29A,] have the same rights in such holding as he had in his original holding:

Provided that nothing in this section shall apply to any person to whom a holding has been allotted under the provisions of sub section (*4*) of section 21.

Transfer of encumbrances.

29. (*1*) If the holding of an owner included in a scheme of consolidation which has come into force under section 22 is burdened with a [4]* * * mortgage, debt or other encumbrance [5][other than a lease] such [4]* * * mortgage, debt or other encumbrance shall be transferred therefrom and attach itself to the holding allotted to him under the scheme or to such part of it as the Consolidation Officer may, subject to any rules made under section 37, appoint; and the [6]* * * mortgagee, creditor or other encumbrancer, as the case may be, shall exercise his rights accordingly.

(*2*) If the holding to which a [4]* * * mortgage, debt or other encumbrance is transferred under sub-section (*1*) is of less market value than the original holding from which it is transferred the [6]* * * mortgagee, creditor or other encumbrancer, as the case may be, shall subject to the provisions of section 30 be entitled to the payment of such compensation by the owner of the holding, as the case may require, as the Consolidation Officer may determine.

(*3*) Notwithstanding anything contained in section 21, the Consolidation Officer shall, in the prescribed manner, put any [6]* * * mortgagee or other encumbrancer entitled to possession into possession of the holding to which his [4]* * * mortgage or other encumbrance has been transferred under sub-section (*1*).

Consolidation Officer to decide whether lease should be transferred or not.

[7][**29A.** (*1*) If the holding of an owner included in a scheme of consolidation which has come into force under section 22 is burdened with a lease, the Consolidation Officer shall by an order in writing determine whether such lease shall or shall not be transferred therefrom. A copy of the order passed by the Consolidation Officer under this sub-section shall be affixed to a place near the holding and shall also be published in the prescribed manner.

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[1] This clause was substituted for the original by Bom. 69 of 1953, s. 8 (*1*).

[2] These words were substituted for the words and figures "proceedings under sections 153 and 155 of Bom. V of 1879", *ibid*, s. 8 (*2*).

[3] These words, figures and letter were inserted, *ibid*, s. 9.

[4] The word "lease" was deleted, *ibid*, s. 10 (*1*).

[5] These words were inserted, *ibid*, s. 10 (*2*).

[6] The word "lessee" was deleted, *ibid*, s. 10 (*1*)

[7] Section 29A was inserted, *ibid*, s. 11.

(*2*) If the Consolidation Officer determines that such lease shall be transferred from the original holding it shall attach itself to the holding allotted to the owner under the scheme or such part of it as the Consolidation Officer may, subject to any rules made under section 37, appoint and the lessee shall exercise his rights accordingly. The provisions of sub-sections (*2*) and (*3*) of section 29 shall apply to such lease as if the lease were a mortgage or other incumbrance.

(*3*) If the Consolidation Officer determines that such lease shall not be transferred from the original holding it shall remain attached thereto, and the owner to whom such holding is allotted under the scheme shall hold it subject to such lease ; and the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, shall, so far as may be, notwithstanding the change in the ownership, apply to such lease ; and the rights and liabilities of such owner and the lessee shall be governed by the provisions of the said Act as between the landlord and his tenant :

Bom. LXVII of 1948.

Provided that such owner shall not be entitled to arrears of rent due under such lease immediately before the allotment of the holding as aforesaid.

(*4*) An appeal against the decision of the Consolidation Officer under this section shall lie to the Settlement Commissioner within the prescribed time.]

Apportionment of compensation or net value in case of dispute.

30. Where there is a dispute in respect of the apportionment of—

(*a*) the amount of compensation determined under sub-section (*2*) of section 16 or sub-section (*4*) of section 17 ;

[1][(*b*) the net value realized or payable under sub-section (*4*) or (*5*) of section 21 ;]

(*c*) the total amount of compensation determined under sub-section (*2*) of section 29,

the Consolidation Officer shall refer the dispute to the decision of the District Court and deposit the amount of the compensation or net value, as the case may be, in the Court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894, shall, so far as may, apply.

I of 1894.

Alienation and sub-division of consolidated holdings.

31. Notwithstanding anything contained in any law for the time being in force, no person to whom a holding has been allotted under this Act shall—

(*a*) transfer any holding or part thereof except in accordance with such conditions as may be prescribed ;

(*b*) except with the permission in writing of the [2][State] Government, sub-divide such holding.

Power to vary scheme on ground of error, irregularity, informality.

32. (*1*) If after a scheme has come into force it appears to the [2][State] Government that the scheme is defective on account of an error, irregularity or informality the [2][State] Government shall publish a draft of such variation in the prescribed manner. The draft variation shall state every amendment proposed to be made in the scheme.

(*2*) Within one month of the date of publication of the draft variation any person affected ther by may communicate in writing any objection to such variation to the [2][State] Government through the Settlement Commissioner.

(*3*) After receiving the objections under sub-section (*2*) the [2][State] Government may, after making such enquiry as it may think fit, by notification in the *Official Gazette*, make the variation with or without modifications or may not make any variation.

(*4*) From the date of the notification making the variation, the variation shall take effect as if it were incorporated in the scheme.

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[1] This clause was substituted for the original by Bom. 69 of 1953, s. 12.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Power to vary or revoke scheme

33. A scheme for the consolidation of holdings confirmed under this Act may at any time be varied or revoked by a subsequent scheme prepared, published and confirmed in accordance with this Act.

CHAPTER V.

GENERAL.

Vesting of powers of Settlement Commissioner.

34. The [1][State] Government may, by notification in the *Official Gazette*, invest the Collector with all or any of the powers of the Settlement Commissioner under this Act.

Power of [1][State] Government to call for proceedings.

35. The [1][State] Government may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit.

Appeal and revision.

36. Except as provided in this Act, no appeal or revision application shall lie from any order passed under Chapter II, III or IV of this Act.

Rules.

37. (*1*) The [1][State] Government may by notification in the *Official Gazette* make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, the [1][State] Government may make rules, providing for—

(*a*) the manner of publication under sub-section (*2*) of section 4 ;

(*b*) the manner of giving public notice under sub-section (*3*) of section 5 ;

(*c*) village records in which fragments shall be entered under sub-section (*1*) of section 6 ;

(*d*) the manner in which the intention to make a scheme shall be published and the manner of preparation of the scheme under section 15 ;

(*e*) the manner of publication under sub-section (*2*) of section 17 of a declaration made under sub-section (*1*) of the said section ;

(*f*) the manner in which a draft scheme of consolidation shall be published under sub-section (*1*) of section 19 in the village or villages concerned ;

(*g*) the manner of publication of a scheme under sub-section (*1*) of section 21, on its being confirmed ;

(*h*) the manner in which a person may be evicted under sub-section [2][(*2A*)] of section 21 :

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These brackets, figure and letter were substituted for the brackets and figure "(*2*)", by Bom. 69 of 1953, s. 13 (*1*).

(*i*) the manner in which compensation recoverable from an owner shall be deposited by him under sub-section (*3*) of section 21 ;

(*j*) the manner in which right of holding may be allotted under sub-section (*4*) of section 21 ;

(*k*) the form in which a certificate shall be granted under section 24 ;

(*l*) the period within which an application shall be made under clause (*b*) of sub-section (*2*) of section 26 ;

(*m*) the guidance of the Consolidation Officer and other officers and persons in respect of the transfer of a [1][* * *] mortgage, debt or other encumbrance under sub-section (*1*) of section 29 ;

(*n*) the conditions in accordance with which holdings may be transferred under clause (*a*) of section 31 ;

(*o*) the manner of publication of a draft variation under sub-section (*1*) of section 32 ;

(*p*) the manner in which the area and assessment (including water-rate, if any) of each reconstituted holding or part of such holding shall be determined ;

(*q*) the manner in which corrections shall be made in the Record of Rights in accordance with a scheme of consolidation ;

(*r*) generally, for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act ;

(*s*) any other matter which is to be or may be prescribed.

(*3*) All rules made under this section shall be subject to the condition of previous publication.

[1] The word "lease" was deleted by Bom. 69 of 1953, s. 13 (*2*).

THE BOMBAY FORWARD CONTRACTS CONTROL ACT, 1947.

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1. Short title and operation.
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5. Power of Provincial Government to make rules and add to, etc., articles association.
6. Power of recognised association to make, add to, vary or rescind bye-laws.
7. Power of Provincial Government to make bye-laws.
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9. Options in goods illegal.
10. Penalty for owning or keeping place used for entering into forward contracts in contravention of Act, etc.
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12. Offences by corporations and firms.
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BOMBAY ACT No. LXIV OF 1947.[1]

[THE BOMBAY FORWARD CONTRACTS CONTROL ACT, 1947.]

[*7th February 1948.*]

An Act to provide for the regulation and control of forward contracts, for prohibition of options and for certain other purposes in the Province of Bombay.

WHEREAS it is expedient to regulate and control forward contracts, to prohibit options and to provide for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and operation.

1. (*1*) This Act may be called the Bombay Forward Contracts Control Act, 1947.

(*2*) This section shall come into force at once.

(*3*) The Provincial Government may by notification in the *Official Gazette* direct that all the remaining sections other than sections 4, 5 and 7 shall come into force in the whole of the Province of Bombay or such part thereof and on such date and in their application to such goods as may be specified in the notification.

(*4*) The Provincial Government may also by notification in the *Official Gazette* direct that section 4, 5 or 7 shall come into force in the whole of the Province of Bombay or such part thereof and on such date and in its application to such goods as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Association" means any association, organization or body of individuals, whether incorporated or not, established for the purpose of regulating and controlling business of the sale or purchase of, or other transactions relating to any goods;

(*2*) "Contract" means a contract entered into, made or to be performed in whole or in part in any notified area relating to the sale or purchase of any goods to which this Act applies:

Provided that the Provincial Government may by notification in the *Official Gazette* direct any contract or class of contracts to be excluded from the provisions of this Act, subject to such conditions as the Provincial Government may deem fit to impose;

(*3*) "Forward contract" means a contract for the delivery of goods at a future date and which is not a ready delivery contract;

(*4*) "Goods" means any kind of moveable property and includes securities but does not include money or actionable claims;

(*5*) "Government security" means a Government security as defined in the Indian Securities Act, 1920;

X of 1920.

(*6*) "Notified area" means any area specified in the notification under sub-section (*3*) of section 1;

(*7*) "Option in goods" means a contract for the purchase or sale of a right to buy, or a right to sell, or a right to buy or sell goods in future and includes a *gully*, a *teji*, a *mandi* or a *teji-mandi* in goods;

(*8*) "Person" includes a firm;

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[1] For Statement of Objects and Reasons see *Bombay Government Gazette*, 1947, Part V, page 274; for Report of the Select Committee, *see ibid.*, page 503; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. XI; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XIII.

(*9*) " Ready delivery contract " means a contract which provides for delivery and payment of price either immediately or within such number of days not exceeding seven after the date of the contract and under such conditions as the Provincial Government may, from time to time, by notification in the *Official Gazette*, specify in this behalf in respect of any particular goods ;

(*10*) " Recognised association " means an association which is for the time being recognised by the Provincial Government as provided in section 3 ;

(*11*) " Securities " includes shares, scrips, stocks, bonds, debentures, debenture stocks, or other marketable security of a like nature in or of any incorporate company or other body corporate and Government securities.

Recognition.

3. (*1*) Any association desirous of being recognised for the purposes of this Act shall make an application in writing to the Provincial Government for such recognition and shall, along with the application, submit rules relating in general to its constitution and management and in particular to—

(*a*) the management of the association by a governing body and the constitution of such governing body ;

(*b*) the powers and duties of the office bearers and the governing body and the manner in which its business shall be transacted ;

(*c*) the admission of various classes of members by the association and the exclusion, suspension, expulsion and readmission of such members ;

(*d*) the formation and registration of partnerships and the appointment of authorised representatives and clerks ;

(*e*) such other matters as the Provincial Government may by order direct.

(*2*) The association shall also furnish such other information in regard to such association as the Provincial Government may require.

(*3*) The Provincial Government may direct that there shall be no limitation of the number of the members of the association or such limitation of the number as the Provincial Government may impose, and may require the association to incorporate in the rules such direction and the conditions, if any, accompanying it.

(*4*) The Provincial Government may require such association to provide in its rules that the Provincial Government may appoint any person, whether a member of the association or not, to be the President or a member of the governing body of such association.

(*5*) If the Provincial Government is satisfied that the rules of the association are suitable in the interest of the trade and are in public interest, the Provincial Government may recognise the association. No alterations or additions shall be made in the rules of a recognised association without the prior approval of the Provincial Government.

(*6*) If the Provincial Government considers that the recognition given to any association should, in the interest of the trade or in public interest, be withdrawn, the Provincial Government may, after giving to the association an opportunity to explain why recognition should not be withdrawn, withdraw the recognition given to the said association, and such association shall thereupon cease to be a recognised association :

Provided that such withdrawal of the recognition of any association shall not in any manner affect the validity of any contract entered into or made prior to the date of the withdrawal of the recognition and the Provincial Government may make such provision as it deems fit for the due fulfilment of such contracts which may be outstanding at such date.

Power of Provincial Government to supersede the governing body, and suspend business.

4. (*1*) (*i*) Notwithstanding anything contained in this Act, or any other law for the time being in force, the Provincial Government may, if it deems fit, by an order published in the *Official Gazette*, declare the governing body of any recognised association to be superseded and may appoint any person or persons to exercise and perform all the powers and duties of the governing body ; and when more persons than one are appointed may appoint one of such persons to be the President :

Provided that a reasonable opportunity shall be given to the governing body to explain why it should not be superseded unless the Provincial Government considers that an emergency has arisen when in the interest of the trade or in public interest immediate supersession is necessary.

(*ii*) The members of the governing body which has been superseded shall, as from the date of the order of supersession, cease to be such members.

(*iii*) The person or persons appointed under clause (*i*) shall hold office for such period as the Provincial Government may, by notification in the *Official Gazette*, appoint and the Provincial Government may from time to time by like notification extend such period.

(*iv*) The person or persons appointed under clause (*i*) may exercise and perform all the powers and duties of the governing body which has been superseded.

(*v*) When a person or persons have been appointed under clause (*i*), all such property of the recognised association as such person or persons may by order in writing declare to be necessary for carrying out the purposes of this Act, shall vest in such person or persons, as the case may be. The property so vested, or which such person or persons may have acquired shall, on the determination of the period of office of such person or persons, re-vest or vest, as the case may be, in the recognised association.

(*vi*) On the determination of the period referred to in clause (*iii*) the recognised association shall forthwith re-constitute a governing body in accordance with its rules : provided that until the governing body is so re-constituted the person or persons appointed under clause (*i*) shall continue to exercise and perform their powers and duties.

(*2*) If in the interest of the trade or in public interest, the Provincial Government considers it necessary to do so, the Provincial Government may by an order published in the *Official Gazette* direct a recognised association to suspend its business for such period and subject to such conditions as may be specified in the order and the Provincial Government may from time to time by like order extend such period.

Power of Provincial Government to make rules and add to, etc., articles of association.

5. (*1*) If the Provincial Government is of opinion that it is expedient to do so, the Provincial Government may at any time add to, vary or rescind any rules made by a recognised association or may make any rules for all or any of the matters, specified in sub-sections (*1*) to (*4*) of section 3, or require such association to add to, vary or rescind its articles of association.

(*2*) Rules, or any addition to, or variation or rescission of, rules made under sub-section (*1*) shall be subject to the condition of previous publication :

Provided that the Provincial Government may in the interest of the trade or in public interest dispense with the condition of previous publication.

(*3*) Rules or any addition to or variation or rescission of, rules made under this section shall be published in the *Official Gazette* and shall be deemed to have been made by the recognised association.

Power of recognised association to make, add to, vary or rescind bye-laws.

6. (*1*) Any recognised association may, subject to the sanction of the Provincial Government, make and, from time to time, add to, vary or rescind bye-laws for the regulation and control of forward contracts in goods for which such association has been recognised.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for—

(*a*) the opening and closing of markets and the times during which such markets shall remain open or closed and regulating the hours of trade ;

(*b*) a clearing house for the periodical settlement of contracts and the differences thereunder, for the delivery of and payment for goods and for the passing on of delivery orders and the regulation and maintenance of such clearing house ;

(*c*) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house ;

(*d*) fixing, altering or postponing settling days ;

(*e*) determining and declaring the market rates for goods ;

(*f*) the terms, conditions and incidents of contracts and the forms of such contracts as are in writing ;

(*g*) regulating the entering into, making, performance, rescission and termination of contracts, including contracts between members, or between a commission agent and his constituent or between a broker and his constituent or between a *jatthawala* or *muccadum* and his constituent or between a member of the recognised association, and a person who is not a member, and the consequences of insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer and the responsibility of commission agents, *muccadums* and brokers not parties to such contracts ;

(*h*) the admission and prohibition of specified classes or types of goods or of dealings in goods by a member of the recognised association ;

(*i*) the method and procedure for settlement of claims and disputes including settlement by arbitration ;

(*j*) the levy and recovery of fees, fines and penalties ;

(*k*) regulating the course of business between parties to contracts in any capacity ;

(*l*) fixing of a scale of brokerage and other charges ;

(*m*) the making, comparing, settling and closing of bargains ;

(*n*) the regulation of fluctuations in rates and prices ;

(*o*) emergencies and the exercise of powers in such emergencies ;

(*p*) the regulation of dealings by members for their own account.

(*3*) The bye-laws may provide that the contravention of any of the bye-laws shall—

(*i*) make a contract which is entered into, made or is to be performed otherwise than in accordance with the bye-law void or illegal ;

(*ii*) render the member liable to expulsion, suspension, fine or other non-monetary penalty.

(*4*) Bye-laws or any addition to or variation or rescission of such bye-laws made under this section shall be subject to the condition of previous publication unless such condition is dispensed with by the Provincial Government in the interest of the trade or in public interest and when sanctioned by the Provincial Government shall be published in the *Official Gazette*.

Power of Provincial Government to make bye-laws

7. (*1*) If the Provincial Government is of opinion that it is expedient to do so, the Provincial Government may at any time add to, vary or rescind any bye-laws made by a recognised association under section 6 or may make any bye-laws for all or any of the matters specified in the said section 6.

(*2*) Bye-laws, or any addition to, or variation or rescission of bye-laws made under sub-section (*1*) may provide for the regulation and control of contracts entered into or made previously to and subsisting at the date of making of the bye-laws, addition, variation or rescission, but not so as to affect contracts entered into or made before a week previous to such date, and all rights and obligations in respect of contracts so regulated and controlled shall thereafter be determined accordingly.

(*3*) Bye-laws or any addition to, variation or rescission of bye-laws made under sub-section (*1*) shall be subject to the condition of previous publication :

Provided that the Provincial Government may, in the interest of the trade or in public interest, dispense with the condition of previous publication.

(*4*) Bye-laws or any addition to, or variation or rescission of bye-laws made under this section shall be published in the *Official Gazette* and shall be deemed to have been made by the recognised association.

Illegal contracts and penalty.

8. (*1*) Every forward contract for the sale or purchase of, or relating to, any goods specified in the notification under sub-section (*3*) of section 1 which is entered into, made or to be performed in any notified area shall be illegal if it is not entered into, made or to be performed—

(*a*) in accordance with such bye-laws, made under section 6 or 7 relating to the entering into, making or performance of such contracts, as may be specified in the bye-laws, or

(*b*) (*i*) between members of a recognised association,

(*ii*) through a member of a recognised association, or

(*iii*) with a member of a recognised association, provided that such member has previously secured the written authority or consent, which shall be in writing if the bye-laws so provide, of the persons entering into or making the contract,

and no claim of any description in respect of such contract shall be entertained in any civil court.

(*2*) Any person entering into or making such illegal contract shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

Options in goods illegal.

9. (*1*) Notwithstanding anything contained in this Act or in any other law for the time being in force on a notification being issued by the Provincial Government in the *Official Gazette*, options or such kinds of options in such goods and in the whole of the Province of Bombay or such part thereof as may be specified in the notification shall be illegal.

(*2*) Any person entering into any option made illegal under sub-section (*1*) shall, on conviction, be punishable with imprisonment which may extend to six months or with fine or with both.

Penalty for owning or keeping place used for entering into forward contracts in contravention of Act, etc.

10. Any person who in any notified area—

(*1*) owns or keeps a place, other than that of a recognised association, which is used for the purpose of entering into or making or performing in whole or in part forward contracts in goods specified in the notification under sub-section (*3*) of section 1 and knowingly permits such place to be used for such purposes ; or

(*2*) without the permission of the Provincial Government organises, or assists in organising or becomes a member of any association, other than a recognised association, established for the purpose of assisting in entering into or making or performing in whole or in part forward contracts such goods ; or

(*3*) manages, controls or assists in keeping any place, other than that of a recognised association, which is used for the purpose of entering into or making or performing in whole or in part forward contracts in such goods or at which such contracts are recorded or adjusted or rights or liabilities arising out of such contracts or options are adjusted, regulated or enforced in any manner whatsoever; or

(*4*) not being a member of a recognised association wilfully represents to or induces any person to believe that he is a member of a recognised association or that a forward contract can be entered into or made or performed in whole or in part under this Act through him, or

(*5*) not being a member of a recognised association or his agent authorised under the rules or bye-laws of such association canvasses, advertises or touts in any manner either for himself or for any other person, for any business connected with forward contracts in such goods; or

(6) joins, gathers or assists in gathering any person or persons for making bids or offers or for entering into or making any forward contracts in such goods at a place other than the place of business specified in the bye-laws of any recognised association,

shall, on conviction, be punishable with imprisonment which may extend to six months or with fine or with both.

Jurisdiction under Act.

11. No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall take cognizance of or try any offence punishable under this Act.

Offences by corporations and firms.

12. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not) or a firm, every director, manager, secretary, agent or other officer or person concerned with the management thereof and every partner of the firm shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Bar of suits and proceedings against officers, etc.

13. No suit, prosecution, or other legal proceedings whatsoever shall be entertained in any Court against the governing body or any office-bearer or servant of a recognised association or against the person or persons appointed under clause (*i*) of sub-section (*1*) of section 4 for anything in good faith done or intended to be done in pursuance or execution of this Act or rules or bye-laws made thereunder.

Repeal of enactments.

14. (*1*) On the date on which an association is recognised under section 3 in any area in respect of securities, the Bombay Securities Contracts Control Act, 1925, and when an association is recognised under section 3 in the City of Bombay and the Island of Salsette in respect of cotton, the Bombay Cotton Contracts Act, 1932, shall cease to have force in such area. Bom. VIII of 1925. Bom. IV of 1932.

(*2*) On the date on which an association is recognised under section 3 in any area in respect of cotton, the Bombay Options in Cotton Prohibition Act, 1939, shall cease to have force in such area Bom. XXV of 1939.

Savings.

15. (*1*) Nothing in this Act or any repeal effected thereby shall affect or be deemed to affect—

(*a*) the terms and incidents of any forward contracts in cotton or securities entered into or made before the date on which the provisions of this Act come into force and to which the Acts hereby repealed applied;

Bom. Ordinance II of 1939.

(*b*) the terms and incidents of any options in cotton entered into or made before the date on which the Bombay Options in Cotton Prohibition Ordinance, 1939, came into force;

(*c*) the validity, invalidity, effect or consequences of anything already done or suffered, in case of such contracts before the coming into force of the provisions of this Act, and in the case of such options before the date of the coming into force of the said Ordinance;

(*d*) any right, title, obligation or liability already acquired, accrued or incurred in regard to such contracts before the date of the coming into force of the provisions of this Act and in regard to such options before the date of the coming into force of the said Ordinance;

(*e*) any remedy or proceeding in respect of such right, title, obligation or liability;

(*f*) anything done in the course of any proceeding pending in any Court, in case of such contracts on the date of the coming into force of the provisions of this Act and in the case of such options on the date of the coming into force of the said Ordinance, and any such remedy or proceeding may be enforced, instituted or continued, as the case may be, as if this Act had not been passed.

(*2*) The provisions of sub-section (*1*) shall apply to forward contracts for the purchase or sale of any other goods to which the provisions of this Act may, from time to time, be applied under sub-section (*3*) of section 1 entered into or made before the date on which a notification in respect of such goods may be published under the said sub-section.

THE LAND ACQUISITION (BOMBAY AMENDMENT) ACT, 1948.

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3. Amendment of sections 3, 11 and 23 of Act I of 1894.

BOMBAY ACT No. IV OF 1948.[1]

[THE LAND ACQUISITION (BOMBAY AMENDMENT) ACT, 1948.]

[*18th March 1948*]

Amended by Bom. 2 of 1953.

An Act to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay.

I of 1894. WHEREAS it is expedient to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title, extent and commencement

1. (*1*) This Act may be called the Land Acquisition (Bombay Amendment) Act, 1948.

(*2*) It extends to the whole of the [2][State] of Bombay.

(*3*) It shall come into force at once.

(*4*) It shall remain in force for a period of [3][ten years] only.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—

(*i*) " housing scheme " means any housing scheme which the Government may from time to time undertake for the purpose of increasing accommodation for housing persons and shall include any such scheme undertaken from time to time with the previous sanction of the [4][State] Government by a local authority or company ;

(*ii*) " relevant date " means the first day of January 1948.

Amendment of section 11 and 23 of Act I of 1894.

I of 1894. **3.** (*1*) Where during the continuance of this Act any land is required under the Land Acquisition Act, 1894 (hereinafter called " the said Act "), for the purpose of a housing scheme the said Act shall have effect in relation to such acquisition as if—

Bom IV of 1948. (*a*) in clause (*f*) of section 3 after the words " such provision " the words and brackets " and a housing scheme as defined in the Land Acquisition (Bombay Amendment) Act, 1948 " had been inserted ;

(*b*) in section 11 after the words, figures and brackets " section 4, sub-section (*1*) " the words " and at the relevant date " had been inserted ; and

(*c*) in section 23—

(*i*) in the *first* clause of sub-section (*1*), after the words, brackets and figures " section 4, sub-section (*1*) " the words " or at the relevant date, whichever is less " had been inserted ; and

(*ii*) sub-section (*2*) had been omitted.

(*2*) Nothing in this section shall apply to any building.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 2.
[2] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.
[3] These words were substituted for the words " five years " by Bom. 2 of 1953, s. 2.
[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

BOMBAY ACT No. XV OF 1948.[1]

[THE IDENTIFICATION OF PRISONERS (BOMBAY AMENDMENT) ACT, 4948.]

[*24th March 1948.*]

An Act to amend the Identification of Prisoners Act, 1920, in its application to the Province of Bombay.

XXXIII of 1920. WHEREAS it is expedient to amend the Identification of Prisoners Act, 1920, in its application to the Province of Bombay; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Identification of Prisoners (Bombay Amendment) Act, 1948.

Amendment of section 4 of Act XXXIII of 1920. XXXIII of 1920. **2.** For section 4 of the Identification of Prisoners Act, 1920, in its application to the Province of Bombay, the following shall be substituted, namely :—

Taking of measurements or photograph of unconvicted persons.

"4. Any person—

(*a*) who has been arrested—

V of 1898. Bom. XXIII of 1945. (*i*) under section 55 of the Code of Criminal Procedure, 1898, or under section 4 of the Bombay Beggars Act, 1945,

Bom. IV of 1890. Bom. IV of 1902. Bom. XXIII of 1945. (*ii*) in connection with an offence punishable under section 61D of the Bombay District Police Act, 1890, or under section 112 of the City of Bombay Police Act, 1902, or under section 6 or 9 of the Bombay Beggars Act, 1945, or in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards, or

Bom. IV of 1890. Bom. IV of 1902. Bom. XXIII of 1945. Bom. VI of 1947. (*b*) in respect of whom a direction or order under section 46 or 46B of the Bombay District Police Act, 1890, or under section 27 of the City of Bombay Police Act, 1902, or under sub-section (*1*) or (*2*) of section 23 of the Bombay Beggars Act, 1945, or under section 2 of the Bombay Public Security Measures Act, 1947, has been made,

shall, if so required by a police officer, allow his measurements or photograph to be taken in the prescribed manner."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 85.

THE POONA UNIVERSITY ACT, 1948.

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SCHEDULE II.

BOMBAY ACT No. XX OF 1948.[1]

[THE POONA UNIVERSITY ACT, 1948.]

[*24th March 1948*]

Amended by Bom. 49 of 1948.
,, ,, ,, 59 of 1949.
,, ,, ,, 24 of 1950.*
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 39 of 1951.
,, ,, ,, 18 of 1953.
,, ,, ,, 30 of 1954.

An Act to establish and incorporate a teaching and affiliating University at Poona.

WHEREAS it is expedient to establish and incorporate a teaching and affiliating University at Poona as a measure in the decentralization and re-organisation of University education in the Province of Bombay ; It is hereby enacted as follows :—

CHAPTER I.
PRELIMINARY.

Short title and commencement.

1. (*1*) This Act may be called the Poona University Act, 1948.
(*2*) This section shall come into force at once.
(*3*) The [2][State] Government may, by notification in the *Official Gazette* direct that all or any of the remaining provisions of this Act shall come into force on such date or dates as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—
(*1*) " Affiliated " means affiliated under sections 5 and 33 ;
(*2*) " College " means a degree college or an intermediate college ;
(*3*) " Constituent " means made constituent under section 39 ;
(*4*) " Degree college " means an affiliated college which is authorised to submit its students to an examination qualifying for any degree of the University.,
(*5*) " High School " means a high school which has been recognized as a full fledged high school by the [3][Director of Education], Bombay [4][State], or by an officer authorised by him in this behalf or a high school situate outside the [4][State] of Bombay which has been registered by the University ;
(*6*) " Hostel " means a unit of residence for students maintained or recognised by the University under this Act ;
(*7*) " Intermediate college " means an affiliated college other than a degree college ;

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[1] For Statement of Objects and Reasons *see Bombay Government Gazette*, 1947, Part V, page 472.
[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950,
[3] These words were substituted for the words " Director of Public Instruction " by Bom. 18 of 1953, s. 3 and Second Schedule.
[4] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.
*Section 4 of Bom. 24 of 1950 reads as under :—

Members from Municipalities in Satara District and from District Local Board, Satara, to cease to be members of Court.

4. The member elected by the District Local Board of the Satara District and the member elected by the municipalities in the Satara District shall cease to be members of the Court with effect from such date as the State Government may appoint in this behalf.

(*8*) " Poona area " means the area specified in Schedule I and such other contiguous areas as may, from time to time, be notified by the [1][State] Government in the *Official Gazette* ;

(*9*) " Principal " means the head of a college ;

(*10*) " Recognized institution " mean an institution for research or specialized studies other than an affiliated college and recognized as such by the University ;

(*11*) " Registered graduate " means a graduate registered under the provisions of this Act ;

(*12*) " Statutes ", " Ordinances " and " Regulations " mean respectively the Statutes, Ordinances and Regulations of the University made under this Act and for the time being in force ;

(*13*) " Teachers " means professors, readers, lecturers and such other persons imparting instruction in the University, an affiliated college or a recognized institution as may be declared to be teachers by the Statutes ;

(*14*) " Teachers of the University " means teachers appointed or recognized by the University for imparting instruction on its behalf ;

(*15*) " University " means the University of Poona constituted under this Act ;

(*16*) " University Area " means the areas specified in Schedule II ;

(*17*) " University Department " means any collegiate, post-graduate or research institution or department maintained by the University.

CHAPTER II.

THE UNIVERSITY.

Incorporation of the University.

3. (*1*) The Chancellor, the Pro-Chancellor (if any), the first Vice-Chancellor of the University and the first members of the Court, the Executive Council and the Academic Council of the University and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of " The University of Poona ".

(*2*) The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

(*3*) The University shall be competent to acquire and hold property both moveable and immovable, to lease, sell or otherwise transfer any moveable or immovable property which may have become vested in or been acquired by it for the purposes of the University and to contract and to do all other things necessary for the purposes of this Act.

Powers of the University.

4. Subject to such conditions as may be prescribed by or under the provisions of this Act, the University shall have the following powers, namely :—

(*1*) to provide for instruction, teaching and training in such branches of learning and courses of study as it may think fit and to make provision for research and for the advancement and dissemination of knowledge ;

(*2*) to make such provision as will enable affiliated colleges and recognized institutions to undertake specialization of studies and to organize common laboratories, libraries, museums and other equipment for teaching and research ;

(*3*) to establish, maintain and manage colleges, departments and institutes of research or specialized studies ;

(*4*) to institute professorships, readerships, lecturerships and any other posts of teachers required by the University ;

[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

(*5*) to appoint or recognize persons as professors, readers or lecturers or otherwise as teachers of the University ;

(*6*) to institute degrees, titles, diplomas and other academic distinctions ;

(*7*) to hold examinations and confer degrees, titles, diplomas and other academic distinctions on persons who—

(*a*) have pursued approved courses of study in the University or in an affiliated college unless exempted therefrom in the manner prescribed by the Statutes, Ordinances and Regulations and have passed the examinations prescribed by the University, or

(*b*) have carried on research under conditions prescribed by the Ordinances and Regulations ;

(*8*) to confer honorary degrees, titles or other academic distinctions in the manner laid down by the Statutes ;

(*9*) to grant such diplomas to, and to provide such lectures, instruction and training, for persons not being enrolled students of the University as the University may determine by the Statutes, Ordinances and Regulations ;

(*10*) to admit educational institutions to the privileges of the University and to withdraw such privileges ;

(*11*) to inspect colleges and recognized institutions and to take measures to ensure that proper standards of instruction, teaching or training are maintained in them ;

(*12*) to control and co-ordinate the activities of, and give financial aid to, constituent colleges and constituent recognized institutions ;

(*13*) to hold and manage endowments and to institute and award fellowships, travelling fellowships, scholarships, studentships, exhibitions, medals and prizes ;

(*14*) to make special provision for the spread of University education among classes and communities which are educationally backward ;

(*15*) to make special provision for disseminating knowledge and promoting arts and culture in rural areas ;

(*16*) to fix, to demand and to receive such fees and other charges as may be prescribed by the Ordinances ;

(*17*) to establish, maintain and manage hostels ;

(*18*) to recognize hostels not maintained by the University, to inspect such hostels and to withdraw recognition therefrom ;

(*19*) to supervise and control the residence, conduct and discipline of the students of the University and to make arrangements for promoting their health and general welfare ;

(*20*) to make provision for the maintenance of—

(*a*) University Officers' Training Corps or other similar training Corps ;
(*b*) Students' Unions ;
(*c*) Sports and Athletic Clubs ; and
(*d*) Employment Bureaux ;

(*21*) to co-operate with other Universities and authorities in such manner and for such purposes as the University may determine ; and

(*22*) to do all such acts and things whether incidental to the powers aforesaid or not as may be requisite in order to further the objects of the University and generally to cultivate and promote arts, science and other branches of learning and culture.

Jurisdiction and admission to privileges.

5. (*1*) (*a*) No educational institution situate within the Poona area shall, save with the consent of the University and the sanction of the Provincial Government, be associated in any way with, or seek admission to any privileges of, any other University established by law.

(*b*) No educational institution situate within the University area other than the Poona area shall, save with the sanction of the Provincial Government, be associated in any way with, or seek admission to any privileges of, any other University established by law.

(*2*) Any such privileges enjoyed from such other University before the date on which this section comes into force by any educational institution situate within the University area shall be deemed to be withdrawn with effect from such date.

(*3*) With effect from such date all educational institutions admitted to the privileges of the University of Bombay and situate within the University area shall be deemed to be admitted to the privileges of the University, and the University shall, as far as may be possible and consistent with this Act admit such institutions to all such privileges as they had from the University of Bombay immediately before such date.

(*4*) Any educational institution in the Province of Bombay situate outside the University area may, with the sanction of the Provincial Government, and any educational institution in an Indian State or other territories may apply to the University for being admitted to the privileges of the University and such institution may, subject to such conditions and restrictions as the University and the Provincial Government think fit to impose, be admitted to the privileges of the University.

University open to all irrespective of sex, religion, class, creed or opinion.

6. (*1*) No person shall be excluded from any office of the University or from membership of any of its authorities or from admission to any degree, diploma, title or other academic distinction or course of study on the sole ground of sex, race, creed, class, religious belief or political or other opinion:

Provided that the University may, subject to the previous sanction of the Provincial Government, maintain, affiliate or recognize any institution exclusively for women or reserve for women or members of classes and communities which are educationally backward places for the purposes of admission as students in any institution maintained by the University.

(*2*) It shall not be lawful for the University to impose on any person any test whatsoever relating to sex, race, creed, class, religious belief or profession of political or other opinion in order to entitle him to be admitted as a teacher or a student or to hold any office or post in the University or to qualify for any degree, diploma, title or other academic distinction or to enjoy or exercise any privileges of the University or any benefaction thereof.

Inspection and inquiry.

7. (*1*) The Chancellor shall have the right to cause an inspection to be made by such person or persons as he may direct of the University, its buildings, laboratories, libraries, museums, workshops and equipment, of any institution, college or hostel maintained, recognized by, or affiliated to, the University, of the teaching and other work conducted by the University and of the conduct of examinations held by the University; and to cause an inquiry to be made in respect of any matter connected with the University. The Chancellor shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made and the University shall be entitled to be represented thereat.

(*2*) The Chancellor shall communicate to the Court and to the Executive Council his views with reference to the results of such inspection or inquiry and shall, after ascertaining the opinion of the Court and the Executive Council thereon, advise the University on the action to be taken.

(*3*) The Executive Council shall report to the Chancellor such action, if any, as it has taken or may propose to take upon the results of the inspection or inquiry. Such report shall be submitted with the opinion of the Court thereon and within such time as the Chancellor may direct.

(*4*) Where the Executive Council does not within a reasonable time take action to the satisfaction of the Chancellor, the Chancellor may, after considering any explanation furnished or representation made by the Executive Council, issue such directions as he may think fit and the Executive Council shall comply with such directions.

(*5*) The [1][State] Government may, whenever it deems fit, cause a like inspection or inquiry to be made in the manner described in sub-sections (*1*) to (*3*) and shall have, for the purposes of such inspection or inquiry, all the powers of the Chancellor under the said sub-sections.

CHAPTER III.

OFFICERS OF THE UNIVERSITY.

Officers of the University.

8. The following shall be the officers of the University, namely :—

(*i*) The Chancellor,

(*ii*) The Pro-Chancellor, if any,

(*iii*) The Vice-Chancellor,

(*iv*) The Deans of Faculties,

(*v*) The Registrar, and

(*vi*) Such other officers in the service of the University as may be declared by the Statutes to be officers of the University.

The Chancellor.

9. (*1*) The Governor of Bombay for the time being shall be the Chancellor of the University :

Provided that the Chancellor shall be a person elected by the Court if the Court so decides after the expiry of the first five years from the date of the establishment of the University by a majority of not less than two-thirds of the total number of its members.

(*2*) If the Court so decides to elect a Chancellor, the manner of his election shall be prescribed by the Statutes.

(*3*) The Chancellor shall, by virtue of his office, be the head of the University and the president of the Court; and shall, when present, preside at meetings of the Court and at any convocation of the University.

(*4*) The Chancellor shall have such other powers as may be conferred on him by this Act or the Statutes.

The Pro-Chancellor.

10. (*1*) The Court may create the office of the Pro-Chancellor by a Statute to be framed by a majority of not less than two-thirds of the total number of its members.

(*2*) If such office is created, it shall be filled by nomination to be made by the Chancellor.

(*3*) The Pro-Chancellor shall hold office for a term of three years.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*4*) The Pro-Chancellor shall exercise all the powers of the Chancellor in his absence or in the event of his being unable to perform the duties of his office.

The Vice-Chancellor.

11. (*1*) Subject to the confirmation of the Chancellor, the Vice-Chancellor shall be elected by the Court from among three persons recommended by [1][Executive Council.] [2]* * * * *

(*2*) The Vice-Chancellor shall hold office for a term of three years.

(*3*) Where any temporary vacancy in the office of the Vice-Chancellor occurs by reason of leave, illness or other cause, the Executive Council shall, as soon as possible, subject to the approval of the Chancellor, make such arrangements for carrying on the duties of the office of the Vice-Chancellor as it may think fit. Until such arrangements are made, the Dean nominated by the Chancellor for that purpose shall carry on the current duties of the office of the Vice-Chancellor.

(*4*) The Vice-Chancellor shall be an honorary officer but the Court may, by Statutes, make the office of the Vice-Chancellor a wholetime salaried office and determine the emoluments to be paid for such office and prescribe the conditions subject to which such office shall be held.

Powers of the Vice-Chancellor.

12. (*1*) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall, in the absence of the Chancellor and the Pro-Chancellor preside at meetings of the Court and any convocation of the University. He shall be an *ex-officio* member and the Chairman of the Executive Council, of the Academic Council and of the committees constituted under sections 46, 47 and 48. He shall be entitled to be present, with the right to speak, at any meeting of any other authority or body of the University, but shall not be entitled to vote thereat unless he is a member of that authority or body.

(*2*) The Vice-Chancellor shall have power to convene meetings of the Court, the Executive Council and the Academic Council. He may delegate this power to any other officer of the University.

(*3*) It shall be the duty of the Vice-Chancellor to ensure that this Act, the Statutes, Ordinances and Regulations are faithfully observed and he shall have all powers necessary for this purpose.

(*4*) (*a*) In any emergency which, in the opinion of the Vice-Chancellor, requires that immediate action should be taken, he shall take such action as he deems necessary and shall at the earliest opportunity thereafter report his action to such officer, authority or body as would have in the ordinary course dealt with the matter.

(*b*) When action taken by the Vice-Chancellor under this sub-section affects any person in the service of the University such person shall be entitled to prefer an appeal through the said officer, authority or body to the Executive Council within fifteen days from the date on which such action is communicated to him.

(*5*) The Vice-Chancellor shall give effect to the orders of the Executive Council regarding the appointment, dismissal and suspension of the persons in the service of the University or teachers of the University or regarding the recognition or withdrawal of the recognition of any such teacher and shall exercise general control over the affairs of the University. He shall be responsible for the discipline of the University in accordance with this Act, the Statutes and Ordinances.

(*6*) The Vice-Chancellor shall exercise such other powers as may be prescribed by the Statutes, Ordinances and Regulations.

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[1] These words were substituted for the original by Bom. 30 of 1954, s. 2 (*1*).

[2] The words beginning with the words "Such recommendation" and ending with the words transferable vote" were deleted, *ibid.*, s. 2 (*2*).

13. The Registrar shall be a wholetime salaried officer and shall act as the Secretary of the Court, of the Executive Council and of the Academic Council. He shall be appointed by the Executive Council in accordance with the Statutes to be framed in this behalf; and his emoluments and conditions of service shall be determined by such Statutes. He shall exercise such powers and perform such duties as may be prescribed by the Statutes, Ordinances and Regulations. The Registrar.

14. The powers and duties of the officers of the University referred to in clause (*vi*) of section 8 shall be such as may be prescribed by the Statutes, Ordinances and Regulations. Other officers.

CHAPTER IV.

AUTHORITIES OF THE UNIVERSITY.

15. The following shall be the authorities of the University, namely :— Authorities of the University.

(*i*) The Court,
(*ii*) The Executive Council
(*iii*) The Academic Council,
(*iv*) The Faculties,
(*v*) The Boards of Studies,
(*vi*) The Board of University Teaching in Poona, and
(*vii*) Such other bodies of the University as may be declared by the Statutes to be the authorities of the University.

16. (*1*) The Court shall consist of the following members, namely :— Court.

Class I—Ex-officio members.

(A) (*i*) The Chancellor,
(*ii*) The Pro-Chancellor (if any),
(*iii*) The Vice-Chancellor,
(*iv*) Ex-Vice-Chancellors of the University,
(*v*) The Deans of Faculties,
(*vi*) The Registrar.

(B) (*i*) The Chief Justice of Bombay, or any other Judge of the High Court nominated by him,
(*ii*) The Minister of Education, Bombay,
[1][(*iii*) The Director of Education, Bombay State, or the Joint or a Deputy Director of Education designated by the State Government,
(*iv*) Four members designated by the State Government representing the following Departments, namely :—
(*a*) Medical or Public Health,
(*b*) Agriculture,
(*c*) Industries,
(*d*) Public Works,]
(*viii*) Vice-Chancellors of other Universities established by law in the [2][State] of Bombay,
(*ix*) Such other *ex-officio* members, not exceeding five, as may be designated by the Statutes,
(*x*) The Secretary, the Additional Secretary or the Joint Secretary to the Department of Education as the [3][State] Government may determine.

(C) (*i*) Heads of University Departments,
(*ii*) Principals of affiliated colleges,
(*iii*) Heads of recognized institutions.

[1] Clauses (*iii*) and (*iv*) were substituted for the original clauses (*iii*) to (*vii*) by Bom. 39 of 1951, s. 3, Second Schedule.
[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word "Provincial", *ibid.*

Class II—Ordinary members.

(A) Elected as specified below :—

(*i*) three members by secondary teachers of high schools from amongst such teachers,

(*ii*) four members by head masters of high schools from amongst such head masters,

(*iii*) five members by teachers from amongst themselves,

(*iv*) by public associations or bodies as under :—

[1][(*a*) two members by the Municipal Corporation of the City of Poona,]

[2]* * * * *

(*c*) one member by the Sholapur Borough Municipality,

(*d*) [3][twelve] members, one each by the Municipalities (other than [4][the Municipality specified in (*c*)] above) in each of the districts specified in Schedule II,

[5][(*e*) one member each by the District Local Boards of the districts specified in Schedule II,]

(*f*) four members, by the Bombay Legislative Assembly from amongst its members, [6][if they are not already members of the Court],

(*g*) one member by the Bombay Legislative Council from amongst its members,

(*h*) members not exceeding three, by such commercial and industrial bodies in the University area as may be designated by the Statutes, from amongst the members of such bodies,

(*i*) two members by registered Trade Unions in the University area designated by the Statutes from amongst their members,

(*j*) twenty-five members, who shall not be persons engaged in the profession of teaching, by registered graduates :

Provided that—

(*i*) every person elected under clauses (*i*) to (*iii*) and under sub-clauses [7][(*f*)], (*g*), (*h*), and (*i*) of clause (*iv*) shall continue to hold the office of a member of the Court only so long as he is a secondary teacher or head-master of a high school or a teacher or a member of the electing body or bodies, as the case may be :

[8][(*ii*) Where in exercise of the powers conferred by the proviso to sub-section (*1*) of section 4 of the Bombay Local Boards Act, 1923, the State Government has not established a district local board for any of the districts specified in Schedule II, the person or persons appointed under the proviso to sub-section (*1*) of the said section 4 of the Bombay Local Boards Act, 1923, shall be deemed to be a district local board, for the purposes of electing a member on the Court under clause (*iv*).] Bom. VI of 1923. Bom. VI of 1923.

(B) Twenty-five members nominated by the Chancellor, including distinguished educationists, women and representatives of minorities and backward communities.

(C) Such number of members as the Statutes may provide to represent [9][Part B States] singly or in groups the educational institutions in which are admitted to the privileges of the University.

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[1] This sub-clause was substituted for the original by Bom. 59 of 1949, s. 491, Appendix III.

[2] Sub-clause (*b*) was deleted, *ibid.*

[3] This word was substituted for the word "ten" by Bom. 24 of 1950, s. 2 (*1*) (*a*).

[4] These words, brackets and letter were substituted for the words, brackets and letters "the Municipalities specified in (*a*) (*b*) and (*c*)", *ibid.*

[5] This sub-clause was substituted for the original, *ibid.*, s. 2 (*1*) (*b*).

[6] These words were substituted by Bom. 30 of 1954, s. 3.

[7] The brackets and letter "(*f*)" were inserted, by Bom. 24 of 1950, s. 2 (*2*).

[8] This proviso was substituted for the original, *ibid.*, s. 2 (*3*).

[9] The words and letter "Part B States" were substituted for the words "Indian States" by the Adaptation of Laws Order, 1950.

(D) Donors to, or for the purposes of, the University, of money or property of the value of not less than one lakh of rupees.

Such donors shall, if willing to serve, be members for life subject to the provisions of section 57.

(E) One nominee of each of the bodies giving a donation to, or for the purposes of the University, of money or property of the value of not less than one lakh of rupees :

Provided that the right of making such nomination and, subject also to the provisions of section 57, the tenure of such nominee shall not extend beyond the period of twenty years from the date of the acceptance by the Executive Council of any such donation.

Explanation.—For the purposes of paragraphs (D) and (E) the value of the property means the market value of the property at the date of acceptance of the donation by the Executive Council.

(F) Such number of members, not exceeding three, as may be fixed by the Statutes, to be elected from amongst themselves by donors to the University each donating less than one lakh of rupees but not less than twenty-five thousand rupees.

(*2*) The term of office of the elected members and of the members in paragraphs (B) and (C) in *Class II* shall be five years.

Meetings of the Court.

17. (*1*) The Court shall, on a date to be fixed by the Chancellor, meet once a year at a meeting to be called the annual meeting of the Court.

(*2*) The Vice-Chancellor may, whenever he thinks fit, and shall, upon a requisition in writing signed by not less than twenty-five members of the Court, convene a special meeting of the Court.

Powers and duties of the Court.

18. (*1*) Subject to such conditions as may be prescribed by or under the provisions of this Act, the Court shall exercise the following powers and perform the following duties, namely :—

(*i*) to make provision for instruction, teaching and training in such branches of learning and courses of study as it may think fit, for research and for the advancement and dissemination of knowledge ;

(*ii*) to make such provision as will enable affiliated colleges and recognised institutions to undertake specialization of studies and to organize and make provision for common laboratories, libraries, museums and other equipment for teaching and research ;

(*iii*) to establish and maintain colleges, departments and institutes of research and specialized studies ;

(*iv*) to institute professorships, readerships, lecturerships and any other post of teachers required by the University ;

(*v*) to institute fellowships, travelling fellowships, scholarships, studentships, exhibitions, medals and prizes ;

(*vi*) to institute and confer degrees, titles, diplomas and other academic distinctions ;

(*vii*) to confer, on the recommendation of the Executive Council, honorary degrees, titles or other academic distinctions ;

(*viii*) to make, amend or repeal the Statutes ;

(*ix*) to consider, cancel, refer back but not amend Ordinances ;

(*x*) to consider and pass resolutions on the annual reports and annual accounts ;

(*xi*) to consider the annual financial estimates prepared by the Executive Council and pass resolutions with reference thereto ;

(*xii*) to elect office-bearers and authorities as provided in the Act and the Statutes ; and

(*xiii*) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes, Ordinances and Regulations.

(*2*) The powers and duties under clauses (*i*) to (*vii*) of sub-section (*1*) shall not be exercised except upon the recommendations made by the Executive Council and the Academic Council.

Executive Council

19. (*1*) The Executive Council shall be the executive authority of the University and shall consist of the following namely :—

(*i*) The Vice-Chancellor—*ex-officio* Chairman,

[1][(*ii*) The Director of Education, Bombay State, or the Joint or a Deputy Director of Education who is a member of the Court.]

(*iii*) Nine persons elected by the Court from amongst its members and

(*iv*) Five persons elected by the Academic Council from amongst its members to represent the different Faculties in the manner prescribed by the Statutes :

Provided that a member elected under clause (*iii*) or (*iv*) shall cease to hold office as such member if he ceases to be a member of the Court or Academic Council, as the case may be.

(*2*) No whole-time employee of the University shall be eligible for election as member of the Executive Council.

(*3*) The term of office of the elected members of the Executive Council shall be three years.

Powers and duties of the Executive Council.

20. (*1*) Subject to such conditions as may be prescribed by or under the provisions of this Act, the Executive Council shall exercise the following powers and perform the following duties, namely :—

(*i*) to hold, control and administer the property and funds of the University ;

(*ii*) to enter into, vary, carry out and cancel contracts on behalf of the University in the exercise or performance of the powers and duties assigned to it by the Act and the Statutes ;

(*iii*) to determine the form, provide for the custody and regulate the use, of the common seal of the University ;

(*iv*) to administer funds placed at the disposal of the University for specific purposes ;

(*v*) to frame the annual financial estimates of the University and to submit them to the Court ;

(*vi*) to make provision for buildings, premises, furniture, apparatus and other means needed for carrying on the work of the University ;

(*vii*) to accept on behalf of the University bequests, donations and transfers of any moveables or immoveable property to the University ;

(*viii*) to transfer any moveable or immoveable property on behalf of the University ;

(*ix*) to manage and regulate the finances, accounts and investment of the University ;

(*x*) to make provision for the maintenance of—

(*a*) University Officers' Training Corps or other similar training Corps ;

(*b*) Students' Unions ;

(*c*) Sports and Athletic Clubs ;

(*d*) Employment Bureaux ;

[1] This clause was substituted for the original by Bom. 39 of 1951, s. 3, Second Schedule.

(*xi*) to manage colleges, departments, institutes of research or specialised studies, laboratories, libraries, museums and hostels maintained by the University ;

(*xii*) to recognize hostels ;

(*xiii*) to register high schools situate outside the Province of Bombay, as may be provided by the Statutes ;

(*xiv*) to arrange for and direct the inspection of affiliated colleges, recognize institutions and hostels, to issue instructions for maintaining their efficiency and for ensuring proper conditions of employment for members of their staff, and in case of disregard of such instructions, to recommend modification of the conditions of their affiliation or recognition or take such other steps as it deems proper ;

(*xv*) to call for reports, returns and other information from colleges, recognized institutions or hostels ;

(*xvi*) to supervise and control the residence, conduct and discipline of the students of the University and to make arrangements for promoting their health and general welfare ;

(*xvii*) to recommend to the Court the conferment of honorary degrees, title and academic distinctions in the manner prescribed by the Statutes ;

(*xviii*) to award fellowships, travelling fellowships, scholarships, studentships, exhibitions, medals and prizes ;

(*xix*) to appoint teachers and servants of the University, fix their emoluments, if any, and define their duties and the conditions of their service and discipline ;

(*xx*) to recognise a member of the staff of an affiliated college or recognized institution as a professor, reader, lecturer or teacher of the University and withdraw such recognition ;

(*xxi*) to appoint examiners, to fix their remuneration and to arrange for the conduct of, and for publishing the results of, the University examinations and other tests ;

(*xxii*) to fix, demand and receive such fees and other charges as may be prescribed by the Ordinances ;

(*xxiii*) to make, amend and cancel the Ordinances ;

(*xxiv*) to accept, reject or refer back Regulations framed by the Academic Council ;

(*xxv*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act, Statutes, Ordinances and Regulations ;

(*xxvi*) to exercise all powers of the University not otherwise provided for in the Act or the Statutes and all other powers which are requisite to give effect to the provisions of this Act or the Statutes.

(*2*) The Executive Council shall make a report to the Court about all acceptances or transfers of property referred to in clause (*vii*) of sub-section (*1*).

(*3*) The Executive Council shall not transfer any immovable property without the previous sanction of the Court.

(*4*) The Executive Council may by Ordinances appoint Committees to carry out its administrative work and define their constitution, functions and tenure.

Academic Council.

21. (*1*) The Academic Council shall be the academic body of the University and shall consist of the following persons. namely :—

Class I—Ex-officio.

(*i*) The Vice-Chancellor—*ex-officio* Chairman,
(*ii*) Deans of Faculties,
(*iii*) Principals of affiliated colleges,
(*iv*) Heads of recognized institutions,
(*v*) Professors and Readers appointed by the University,
(*vi*) Chairmen of the Boards of Studies.

Class II—Other members.

(*i*) One representative of the teachers in each degree college,
(*ii*) Three persons not engaged in the profession of teaching whom the Executive Council may nominate by virtue of their expert knowledge :

Provided that a person elected under sub-clause (*i*) in Class II shall continue to hold the office of a member of the Academic Council only so long as he is a teacher.

(*2*) The term of office of the members of the Academic Council other than *ex-officio* members shall be three years.

Powers and duties of the Academic Council.

22. (*1*) The Academic Council shall have the control and general regulation of, and be responsible for, the maintenance of the standards of teaching and examinations within the University.

(*2*) Without prejudice to the generality of the foregoing provision and subject to such conditions as may be prescribed by or under the provisions of this Act, the Academic Council shall exercise the following powers and perform the following duties, namely :—

(*i*) to make Regulations laying down courses of study ;
(*ii*) to make Regulations regarding the special courses of study or division of subjects in constituent and other affiliated colleges and in recognized institutions ;
(*iii*) to arrange for co-ordination of studies and teaching in constituent and other affiliated colleges and in recognized institutions ;
(*iv*) to promote research within the University ;
(*v*) to make proposals for allocating subjects to the Faculties and to assign its own members to the Faculties ;
(*vi*) to make proposals for the establishment of colleges, departments, institutes of research and specialized studies, libraries, laboratories and museums ;
(*vii*) to make proposals for the institution of professorships, readerships, lecturerships and any other posts of teachers required by the University and, for prescribing the duties and fixing the emoluments of such posts ;
(*viii*) to make proposals for the institution of fellowships, travelling fellowships, scholarships, studentships, exhibitions, medals and prizes and to make Regulations for their award ;
(*ix*) to make Regulations regarding the examinations of the University and the conditions on which students shall be admitted to such examinations ;
(*x*) to make Regulations prescribing equivalence of examinations ;
(*xi*) to make Regulations prescribing the manner for granting exemptions from approved courses of studies in the University or in affiliated colleges for qualifying for degrees, titles, diplomas and other academic distinctions ;

(*xii*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act, Statutes, Ordinances and Regulations; and

(*xiii*) generally to advise the University on all academic matters.

Faculties and their functions.

23. (*1*) The University shall include the Faculties of Arts, Science, Law, Medicine, Engineering, Agriculture and such other Faculties as may be prescribed by the Statutes. Each Faculty shall comprise such subjects as may be prescribed by the Statutes.

(*2*) Each Faculty shall consist of—

(*i*) members of the Academic Council who are not members of the Boards of Studies and who are assigned to the Faculty by the Academic Council, and

(*ii*) members of the Boards of Studies for the subjects comprised in the Faculty.

Explanation.—For the purposes of the assignment of members under this sub-section, the Academic Council shall not include Deans of Faculties.

(*3*) The powers and duties of the Faculties and the conditions governing the terms of offices of their members shall be as prescribed by the Statutes.

Deans of Faculties.

24. (*1*) There shall be a Dean of each Faculty who shall be elected by the Faculty from amongst its members. The term of office of a Dean shall be two years.

(*2*) The Dean of each Faculty shall be responsible for the due observance of the Statutes, Ordinances and Regulations relating to that Faculty.

Boards of Studies.

25. (*1*) There shall be a Board of Studies for every subject or group of subjects as may be prescribed by the Statutes.

(*2*) Each Board shall consist of—

(*i*) Heads of the University Departments in the subjects for which the Board is constituted;

(*ii*) Heads of departments in the said subjects in degree colleges and recognized institutions;

(*iii*) such classes of teachers of the University in the said subjects, in such numbers and elected in such manner, as may be prescribed by the Statutes;

(*iv*) persons, who shall not be teachers of the University, to be co-opted by the Board, not exceeding such number as may be prescribed by the Statutes.

(*3*) The Chairman shall be nominated by the Vice-Chancellor from amongst the Heads of the University Departments or if there is no such University Department from amongst the Heads of departments in the degree colleges or recognized institutions in the subjects for which the Board is constituted.

(*4*) The term of office of elected or co-opted members shall be three years.

(*5*) The powers and duties of the Boards of Studies shall be as prescribed by the Statutes.

Explanation.—For the purposes of this section, a department in a degree college means a department which imparts instruction in prescribed courses up to and for the degree examination.

University Boards.

26. (*1*) The University shall establish a Board of Extra-Mural Studies, a Board for Students' Welfare and such other Boards as may be prescribed by the Statutes.

(*2*) The constitution, powers and duties of the Boards established under sub-section (*1*) shall be as prescribed by the Ordinances.

Other authorities.

27. The constitution, powers and duties of such other bodies as may be declared by the Statutes to be authorities of the University shall be as prescribed by the Statutes.

CHAPTER V.

STATUTES, ORDINANCES AND REGULATIONS.

Statutes.

28. Subject to such conditions as may be prescribed by or under the provisions of this Act, the Statutes may provide for all or any of the following matters, namely :—

(*i*) conferment of honorary degrees ;

(*ii*) holding of convocations to confer degrees ;

(*iii*) powers and duties of the officers of the University ;

(*iv*) constitution, powers and duties of the authorities of the University save as provided in this Act ;

(*v*) institution and maintenance by the University of departments, colleges, institutes of research or specialized studies and hostels ;

(*vi*) acceptance and management of bequests, donations and endowments ;

(*vii*) registration of graduates and maintenance of a register of registered graduates ;

(*viii*) procedure at meetings of the authorities of the University and for the transaction of their business ; and

(*ix*) all matters which by this Act are to be or may be prescribed by the Statutes.

Statutes—their making, amendment, repeal and operation.

29. (*1*) The Statutes may be made by the Court or may be amended, repealed or added to by Statutes made by the Court, in the manner hereinafter provided.

(*2*) The Court may take into consideration the draft of a Statute either of its own motion or on a proposal by the Executive Council.

(*3*) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court.

(*4*) Such draft shall be considered by the Court at its next succeeding meeting. The Court may approve such draft and pass the Statute or may reject it or return it to the Executive Council for reconsideration either in whole or in part together with any amendments which the Court may suggest. After any draft so returned has been further considered by the Executive Council together with any amendments suggested by the Court, it shall be again presented to the Court with the report of the Executive Council thereon and the Court may then deal with the draft in any manner it thinks fit.

(*5*) Where a Statute affects the powers or duties of any officer, authority or Board of the University—

(*i*) the Executive Council shall before proposing the draft of such Statute ascertain and consider the views of the officer, authority or Board concerned ; and

(*ii*) the Court before passing any such Statute taken into consideration of its own motion shall ascertain and consider the views of the officer, authority or Board concerned and the opinion of the Executive Council.

(*6*) All Statutes passed by the Court from time to time shall be submitted to the Provincial Government and shall be liable to be cancelled by the Provincial Government within a period of one year from the date they were received by it :

Provided that before a Statute is cancelled the Court shall be given an opportunity to express its views.

Ordinances.

30. Subject to such conditions as may be prescribed by or under the provisions of this Act, the Executive Council may make Ordinances to provide for all or any of the following matters :—

(*i*) conditions under which students shall be admitted to courses of studies for degrees, titles, diplomas and other academic distinctions ;

(*ii*) conditions of residence, conduct and discipline of students of the University ;

(*iii*) conditions governing the appointment and the duties of examiners ;

(*iv*) conduct of examinations ;

(*v*) recognition of hostels ;

(*vi*) recognition of teachers of the University ;

(*vii*) inspection of affiliated colleges, recognized institutions and hostels ;

(*viii*) mode of execution of contracts or agreements for, or on behalf of, the University ;

(*ix*) rules to be observed and enforced by colleges and recognized institutions in respect of transfer of students ;

(*x*) all matters which by this Act or the Statutes are to be or may be provided for by the Ordinances ; and

(*xi*) generally all matters for which provision is, in the opinion of the Executive Council, necessary for the exercise of the powers conferred or the performance of the duties imposed upon the Executive Council by this Act or the Statutes.

Making of Ordinances.

31. (*1*) Ordinances shall be made by the Executive Council :

Provided that no Ordinance concerning the matters referred to in clauses (*i*), (*iii*), (*iv*) and (*vi*) of section 30 or any other matter connected with the maintenance of the standards of teaching and examinations within the University shall be made unless a draft of the same has been proposed by the Academic Council.

(*2*) The Executive Council shall not have power to amend any draft proposed by the Academic Council under sub-section (*1*) but may reject it or return it to the Academic Council for reconsideration, either in whole or in part, together with any amendments which the Executive Council may suggest.

(*3*) All Ordinances made by the Executive Council shall, except as provided by this Act, have effect from such date as it may direct but every Ordinance so made shall be laid before the Court and shall be considered by the Court at its next succeeding meeting.

(*4*) The Court shall have power by a resolution to cancel or to refer back but not to amend any such Ordinance. The resolution shall be passed by a majority of not less than two-thirds of the members present at such meeting, the majority comprising not less than one-half of the members of the Court.

(*5*) The Vice-Chancellor shall, on the application of not less than fifty members of the Court, suspend the operation of any such Ordinance until the Court has considered it as provided in sub-section (*3*).

Regulations and Rules.

32. (*1*) The Academic Council may, subject to the approval of the Executive Council, make Regulations, consistent with this Act, the Statutes and the Ordinances, providing for all matters which by this Act, the Statutes or the Ordinances are to be provided for by Regulations and for all other matters solely concerning itself.

(*2*) Any authority of the University specified in clauses (*iv*) to (*vii*) of section 15 and any other Board of the University may, subject to the approval of the Executive Council, make Rules, consistent with this Act, the Statutes, Ordinances and Regulations, providing for all matters solely concerning such authority or Board.

CHAPTER VI.

AFFILIATION AND RECOGNITION.

Affiliation.

33. (*1*) A college applying for affiliation to the University shall send a letter of application to the Registrar, and shall satisfy the Executive Council and the Academic Council—

(*a*) that the college will supply a need in the locality, having regard to the type of education intended to be provided by the college, the existing provision for the same type of education made by other colleges in the neighbourhood, and the suitability of the locality where the college is to be established ;

(*b*) that the college is to be under the management of a regularly constituted governing body ;

(*c*) that the strength and qualifications of the teaching staff and the conditions governing their tenure of office are such as to make due provision for the courses of instruction, teaching or training to be undertaken by the college ;

(*d*) that the buildings in which the college is to be located are suitable, and that provision will be made, in conformity with the Ordinances, for the residence in the college or in lodgings approved by the college, of students not residing with their parents or guardians, and for the supervision and welfare of students ;

(*e*) that due provision has been or will be made for a library ;

(*f*) where affiliation is sought in any branch of experimental science, that arrangements have been or will be made in conformity with the Statutes, Ordinances and Regulations for imparting instruction in that branch of science in a properly equipped laboratory or museum ;

(*g*) that due provision will, as far as circumstances may permit, be made for the residence of the Principal and some members of the teaching staff in or near the college or the place provided for the residence of students ;

(*h*) that the financial resources of the college are such as to make due provision for its continued maintenance and efficient working ; and

(*i*) that the college rules fixing the fees (if any) to be paid by the students have not been so framed as to involve such competition with any existing college in the same neighbourhood as would be injurious to the interests of education.

The application shall further contain an assurance that after the college is affiliated, any transference of management and all changes in the teaching staff and all other changes which result in any of the aforesaid requirements not being fulfilled or continued to be fulfilled shall be forthwith reported to the Executive Council.

(*2*) On receipt of a letter of application under sub-section (*1*), the Executive Council shall—

(*a*) direct a local inquiry to be made by a competent person or persons authorized, by the Executive Council in this behalf in respect of the matters referred to in sub-section (*1*) and such other matters as may be deemed necessary and relevant ;

(*b*) make such further inquiry as may appear to it to be necessary ; and

(*c*) record its opinion after consulting the Academic Council on the question whether the application should be granted or refused, either in whole or in part, stating the results of any inquiry under clauses (*a*) and (*b*).

(*3*) The Registrar shall submit the application and all proceedings, if any, of the Academic Council and the Executive Council relating thereto to the Provincial Government which, after such inquiry as may appear to it necessary, shall grant refuse the application or any part thereof.

(*4*) Where the application or any part thereof is granted, the order of the Provincial Government shall specify the courses of instruction in respect of which the college is affiliated, and, where the application or any part thereof is refused, the grounds of such refusal shall be stated.

(*5*) As soon as possible after the Provincial Government makes its order, the Registrar shall submit to the Court a full report regarding the application, the action taken thereon under sub-sections (*2*) to (*4*) and of all proceedings connected therewith.

(*6*) An application under sub-section (*1*) may be withdrawn at any time before an order is made under sub-section (*3*).

Extension of affiliation.

34. Where a college desires to add to the courses of instruction in respect of which it is affiliated the procedure prescribed by section 33 shall, so far as may be, be followed.

Recognition of institutions of research and specialized studies.

35. (*1*) The Executive Council shall have the power, after consultation with the Academic Council, to recognize as a recognized institution any institution of research of specialized studies other than a college.

(*2*) An institution applying for recognition under this section shall send a letter of application to the Registrar and shall give full information in the letter of application in respect of the following matters, namely :—

(*a*) constitution and personnel of the managing body ;

(*b*) subjects and courses in regard to which recognition is sought ;

(*c*) accommodation, equipment and the number of students for whom provision has been or is proposed to be made ;

(*d*) the strength of the staff, their qualifications and salaries and the research work done by them ;

(*e*) fees levied or proposed to be levied and the financial provision made for capital expenditure on buildings and equipment and for the continued maintenance and efficient working of the institution.

(*3*) Before taking the application into consideration the Executive Council may call for any further information which it may deem necessary.

(*4*) If the Executive Council decides to take the application into consideration, it may direct a local inquiry to be made by a competent person or persons authorized by it in this behalf. After considering the report made as a result of such local inquiry and making such further inquiry as may appear to it to be necessary, the Executive Council shall, after consultation with the Academic Council, grant or refuse the application or any part thereof. Where the application or any part thereof is granted, the Executive Council shall specify the subjects and the courses of instruction in respect of which the institution is recognized and make a report to that effect to the Academic Counicl and the Court at their next succeeding meetings. Where the application or any part thereof is refused the grounds of such refusal shall be stated.

Inspection of colleges and reports.

36. (*1*) Every affiliated college and recognized institution shall furnish such reports, returns and other information as the Executive Council after consulting the Academic Council may require to enable it to judge of the efficiency of the college or institution.

(*2*) The Executive Council shall cause every such college or institution to be inspected from time to time by one or more competent persons authorized by the Executive Council in this behalf.

(*3*) The Executive Council may call upon any college or institution so inspected to take, within a specified period, such action as may appear to it to be necessary in respect of any of the matters referred to in sub-section (*1*) of section 33 and sub-section (*2*) of section 35.

Withdrawal of affiliation.

37. (*1*) The rights conferred on a college by affiliation may be withdrawn in whole or in part or modified if the college has failed to carry out any of the provisions of sub-section (*1*) of section 33 or the college has failed to observe any of the conditions of its affiliation or the college is conducted in a manner which is prejudicial to the interests of education.

(*2*) A motion for the withdrawal or the modification of such rights shall be initiated only in the Executive Council. The member of the Executive Council who intends to move such a motion shall give notice of it and shall state in writing the grounds on which it is made.

(*3*) Before taking the said motion into consideration, the Executive Council shall send a copy of the notice and written statement mentioned in sub-section (*2*) to the Principal of the college concerned, together with an intimation that any representation in writing submitted within a period specified in such intimation on behalf of the college will be considered by the Executive Council:

Provided that the period so specified may, if necessary, be extended by the Executive Council.

(*4*) On receipt of the representation or on the expiry of the period referred to in sub-section (*3*), the Executive Council, after considering the notice of motion, statement and representation, and after such inspection by any competent person or persons authorised by the Executive Council in this behalf, and such further inquiry as may appear to it to be necessary and after consulting the Academic Council, shall make a report to the Court.

(*5*) On receipt of the report under sub-section (*4*) the Court shall, after such further inquiry, if any, as may appear to it to be necessary, record its opinion in the matter:

Provided that no resolution of the Court recommending the withdrawal of affiliation shall be deemed to have been passed by it unless the resolution has obtained the support of two-thirds of the members present at a meeting of the Court, such majority comprising not less than one-half of the members of the Court.

(*6*) The Registrar shall submit the proposal and all proceedings, if any, of the Academic Council, the Executive Council and the Court, relating thereto, to the Provincial Government which, after such further inquiry, if any, as may appear to it to be necessary, shall make such order as it deems fit.

(*7*) Where, by an order made under sub-section (*6*) the rights, conferred by a affiliation are withdrawn in whole or in part or modified, the grounds for such withdrawal or modification shall be stated in the order.

Withdrawal of recognition.

38. (*1*) The rights conferred on an institution by recognition may be withdrawn or suspended for any period if the institution has failed to observe any of the conditions of its recognition or the institution is conducted in a manner which is prejudicial to the interest of education.

(*2*) A motion for such withdrawal or suspension shall be initiated only in the Executive Council. The member of the Executive Council who intends to move such a motion shall give notice of it and shall state in writing the grounds on which it is made.

(*3*) Before taking the said motion into consideration, the Executive Council shall send a copy of the notice and written statement mentioned in sub-section (*2*) to the head of the institution concerned, together with an intimation that any representation in writing submitted within a period specified in the intimation on behalf of the institution will be considered by the Executive Council :

Provided that the period so specified may, if necessary, be extended by the Executive Council.

(*4*) On receipt of the representation or on the expiry of the period referred to in sub-section (*3*), the Executive Council, after considering the notice of motion, statement and representation and after such inspection by any competent person or persons authorized by the Executive Council in this behalf, and after such further inquiry as may appear to it to be necessary and after consulting the Academic Council, shall make a report to the Court if the Executive Council decides that the recognition should be withdrawn or suspended. No such report for withdrawal or suspension shall be made unless a resolution to that effect is supported by at least two-thirds of the members present at the meeting of the Executive Council.

(*5*) On receipt of the report under sub-section (*4*) the Court shall, after such further inquiry, if any, as may appear to it to be necessary, decide whether the recognition should be withdrawn or suspended, as the case may be :

Provided that the recognition shall not be withdrawn or suspended unless a resolution of the Court to that effect is supported by a majority of at least two-thirds of the members present at the meeting of the Court, such majority comprising not less than one-half of the members of the Court.

CHAPTER VII.

ORGANIZATION WITHIN THE POONA AREA AND FOR POSTGRADUATE TEACHING.

Constituent colleges and institutions.

39. (*1*) All colleges within the Poona area which are admitted to the privileges of the University under sub-section (*3*) of section 5 and all colleges within the said area which may thereafter be affiliated to the University shall be the constituent colleges of the University.

(*2*) All institutions within the Poona area recognized under sections 35 and 65 shall be the constituent recognized institutions of the University.

(*3*) The relations of the constituent colleges and constituent recognized institutions with the University shall be governed by the Statutes to be made in that behalf, and such Statutes shall provide in particular for the exercise by the University of the following powers in respect of the constituent degree colleges and constituent recognized institutions :—

(*i*) to lay down minimum educational qualifications for the different classes of teachers and tutorial staff employed by such colleges and institutions and the conditions of their service ;

(*ii*) to approve the appointments of the teachers made by such colleges and institutions ;

(*iii*) to require each such college and institution to contribute a prescribed quota of recognized teachers in any subject for teaching on behalf of the University ;

(*iv*) to co-ordinate and regulate the facilities provided and expenditure inourred by such colleges and institutions in regard to libraries, laboratories and other equipments for teaching and research ;

(*v*) to require such colleges and institutions, when necessary, to confine the enrolment of students to certain subjects ;

(*vi*) to levy contributions from such colleges and institutions and make grants to them ; and

(*vii*) to require satisfactory arrangements for tutorial and similar other work in such colleges and institutions and to inspect such arrangements from time to time.

Teaching within the Poona area and post-graduate teaching.

40. (*1*) Within the Poona area, all instruction teaching and training beyond the stage of the Intermediate examinations and within the University area all post-graduate instruction, teaching and training shall be conducted by the University and shall be imparted by the teachers of the University :

Provided that a constituent degree college or a constituent recognized institution shall supplement such teaching by tutorial or other instruction, teaching or training in the manner to be prescribed by the Regulations to be made by the Academic Council.

(*2*) For the purpose of organizing and co-ordinating the instruction, teaching and training within the Poona area, and the post-graduate instruction, teaching and training in the University area, there shall be constituted a Board to be known as the Board of University Teaching in Poona. The constitution, powers and duties of the Board shall be as prescribed by the Statutes.

CHAPTER VIII.

ENROLMENT AND DEGREES.

Qualification for enrolment of students of the University.

41. No student shall be enrolled as a student of the University unless he has passed—

[1][(*i*) the Secondary School Certificate Examination conducted by the Secondary School Certificate Examination Board in such subjects and with such standards of attainments as may be prescribed by the Statutes, or]

(*ii*) the Entrance Examination, if any, which may be instituted by the University with the consent of the Provincial Government, and held in such subjects and in such manner as may be prescribed by the Statutes, or

(*iii*) any other examination prescribed as equivalent to the examinations referred to in clauses (*i*) and (*ii*),

and possesses such further qualification, if any, as may be prescribed by the Statutes.

Residence of students.

42. Every student of the University shall reside in a hostel or under such conditions as may be prescribed by the Ordinances.

Degrees, titles, diplomas and other academic distinctions.

43. The Court may institute and confer such degrees, titles, diplomas and other academic distinctions as may be prescribed by the Statutes.

[1] This clause was substituted for the original by Bom. 49 of 1948, s 35.

Honorary degree.

44. If not less than two-thirds of the members of the Executive Council recommend that an honorary degree, title or other academic distinction be conferred on any person on the ground that he is in their opinion by reason of eminent position and attainments, a fit and proper person to receive such degree, title or other academic distinction and where their recommendation is supported by a majority of not less than two-thirds of the members of the Court present at a meeting of the Court, such majority comprising not less than one-half of the members of the Court, and the recommendation is confirmed by the Chancellor, the Court may confer on such person the honorary degree, title or other academic distinction so recommended without requiring him to undergo any examination.

Removal from membership of University and withdrawal of degree or diploma.

45. (*1*) The Chancellor may, on the recommendation of the Executive Council and of the Court supported by a majority of not less than two-thirds of the members of each body present at its meeting such majority comprising not less than one-half of the members of each body, remove the name of any person from the register of graduates or withdraw from any person a diploma or degree if he has been convicted by a Court of Law of any offence which, in the opinion of the Executive Council and the Court, is a serious offence involving moral turpitude or if he has been guilty of scandalous conduct.

(*2*) No action under this section shall be taken unless the person concerned is given an opportunity to be heard in his defence in the manner prescribed by the Statutes.

CHAPTER IX.

Committees.

Committee of Selection for appointment of teachers of the University.

46. (*1*) No person shall be appointed as a teacher of the University except on the recommendation of a Committee of Selection constituted for the purpose.

(*2*) The members of the Committee shall be—

(*i*) the Vice-Chancellor— *ex-officio* Chairman ;

(*ii*) four persons having special knowledge of the subject for which the teacher is to be appointed, to be selected as follows :—

(*a*) one by the Academic Council who shall be a member of the Faculty in which the subject is comprised ;

(*b*) one by the Academic Council and two by the Executive Council, who shall not be members of the Court, members of Faculties or teachers.

(*3*) The Committee shall investigate the merits of the various candidates, and shall recommend to the Executive Council the names, if any, of persons whom it considers suitable for the post, arranged in the order of merit.

(*4*) Out of the persons so recommended, the Executive Council shall make the final selection :

Provided that where the Executive Council proposes to make the appointment otherwise than in accordance with the order of merit arranged by the Committee, the Executive Council shall record its reasons and submit its proposal for the sanction of the Chancellor.

Committee for recognition of

47. (*1*) No person shall be recognized as a teacher of the University except on the recommendation of a Committee constituted for the purpose.

teachers of the University.

(*2*) The members of the Committee shall be—

(*i*) The Vice-Chancellor—*ex-officio* Chairman ;

(*ii*) The Head of the University Department, if any ;

(*iii*) Four persons having special knowledge of the subject for which the teacher is to be recognized, to be selected as follows, namely :—

(*a*) Two by the Executive Council who shall not be members of the Court, members of the Faculties or teachers,

(*b*) Two by the Academic Council from amongst its members.

Appointment of examiners Committee.

48. (*1*) A Committee for each Faculty shall be formed every year for the purpose of drawing up lists for appointments to University examinerships.

(*2*) The members of the Committee shall be—

(*i*) The Vice-Chancellor—*ex-officio* Chairman ;

(*ii*) The Lean of the Faculty ;

(*iii*) Two members appointed by the Academic Council ;

(*iv*) Two members appointed by the Executive Council.

(*3*) The Committee shall draw up the lists from amongst persons included in panels to be prepared by the Boards of Studies. The lists so drawn up shall be submitted for approval to the Academic Council and the Executive Council. The Executive Council shall make the appointments of examiners on the advice of the Academic Council :

Provided that no change in the lists shall be suggested or made by the Academic Council or the Executive Council except by passing a special resolution stating the specific grounds on which each change suggested or mad is based.

(*4*) If any examiner is unable to act for any cause and a fresh appointment cannot be made in time by the Executive Council, the Vice-Chancellor shall appoint another examiner to fill the vacancy and shall report such appointment to the Executive Council.

Committees.

49. All the authorities of the University shall have power to appoint committees. Such committees may include persons who are not members of the authority appointing the committee.

CHAPTER X.

FINANCE.

University Fund.

50. (*1*) The University shall establish a fund to be called the University Fund.

(*2*) The following shall form part of, or be paid into, the University Fund :—

(*a*) any contribution or grant by the [1][State] Government,

(*b*) the income of the University from all sources including income from fees and charges.

(*c*) bequests, donations, endowments and other grants, if any.

(*3*) The University Fund shall be kept in any scheduled bank as defined in the Reserve Bank of India Act, 1934, [2][or in a co-operative bank approved by the State Government for the purpose or invested] in securities authorized by the Indian Trusts Act, 1882, at the discretion of the Executive Council. II of 1934. II of 1882

Annual accounts and Financial estimates.

51. (*1*) The annual accounts of the University shall be prepared under the direction of the Executive Council and shall be submitted to the [1][State] Government for audit.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words "or invested" by Bom. 30 of 1954, s. 4.

(*2*) The accounts when audited shall be published by the Executive Council in the *Official Gazette* and copies thereof shall, together with the copies of the Audit Report, be submitted to the Court and to the [1][State] Government.

(*3*) The Executive Council shall also prepare, before such date as may be prescribed by the Statutes, the financial estimates for the ensuing year.

(*4*) The annual accounts and the financial estimates shall be considered by the Court at its annual meeting and the Court may pass resolutions with reference thereto and communicate the same to the Executive Council which shall take them into consideration and take such action thereon as it thinks fit, and finally adopt the accounts and financial estimates. The Executive Council shall inform the Court, at its next meeting, of the action taken by it or of its reasons for taking no action.

Annual Report.

52. The Annual Report of the University shall be prepared under the direction of the Executive Council and shall be submitted to the Court on or before such date as may be prescribed by the Statutes and shall be considered by the Court at the annual meeting. The Court may pass resolutions thereon and communicate the same to the Executive Council which shall take such action as it thinks fit ; and the Executive Council shall inform the Court at its next meeting of the action taken by it or of its reasons for taking no action.

CHAPTER XI.

SUPPLEMENTARY PROVISIONS.

Conditions of service.

53. Save as otherwise provided by or under this Act, every salaried officer and teacher of the University shall be appointed under a written contract. The contract shall be lodged with the Registrar of the University and a copy thereof shall be furnished to the officer or teacher concerned.

Tribunal of arbitration.

54. Any dispute arising out of a contract between the University and any officer or teacher of the University shall, on the request of the officer or teacher concerned, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned and an umpire appointed by the Chancellor. The decision of the Tribunal shall be final and no suit shall lie in any Civil Court in respect of the matter decided by the Tribunal. Every such request shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Indian Arbitration Act, 1940, and the provisions of that Act shall apply accordingly.

X of 1940.

Pension, Insurance and Provident Fund.

55. The University shall make adequate provisions for the benefit of its officers, teachers and other servants in matters of insurance, pension and provident fund or for other benefits as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

Election to be by system of proportional representation.

[2][**56.** Every election to the office of the Vice-Chancellor or any authority of the University and every recommendation for the nomination to the office of the Vice-Chancellor made under this Act shall be made by the system of proportional representation by means of a single transferable vote by ballot in such manner as may be prescribed by the Statutes.]

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] Section 56 was substituted for the original by Bom. 30 of 1954, s. 5.

Vacating of office.

57. (*1*) Any member of any authority or body of the University may resign his office by letter addressed to the Registrar.

(*2*) Any member of any authority or body of the University shall cease to be a member on his being convicted by a Court of Law, of an offence which involves moral turpitude.

Filling of casual vacancies.

58. When any vacancy occurs in the office of a member (other than an *ex-officio* member) of any authority or other body of the University before the expiry of the term of office of such member, the vacancy shall be filled up, as soon as conveniently may be, by the election, nomination, appointment or co-option, as the case may be, of a member who shall hold office so long only as the member in whose place he has been elected, nominated, appointed or co-opted, would have held it, if the vacancy had not occurred :

Provided that, if the vacancy be of an elected member of the Court and occurs within six months preceding the date on which the term of office of such member expires, the vacancy shall not be filled.

Proceedings not invalidated by vacancies.

59. No act or proceeding of any authority or other body of the University shall be invalidated merely by reason of any vacancy in its membership.

Disputes as to constitution of University authority or body.

60. If any question arises regarding the interpretation of any provision of this Act, or of any Statute, Ordinance, Regulation or Rule, or as to whether a person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter [1][may be referred on a petition by any person or body directly affected or *suo motu* by the Vice-Chancellor] to the Chancellor, who shall, after taking such advice as he deems necessary, decide the question and his decision shall be final :

[2][Provided that such reference shall be made by the Vice-Chancellor to the Chancellor upon a requisition in writing signed by not less than ten members of the Court.]

Protection of acts and orders.

61. All acts and orders in good faith done and passed by the University or any of its authorities, bodies or officers shall be final and no suit shall be instituted against or damage claimed from the University or its authorities, bodies or officers for anything purporting to be done in pursuance of the Act and the Statutes, Ordinances, Regulations and Rules framed thereunder.

CHAPTER XII.

TRANSITORY PROVISIONS.

Completion of courses of students in colleges affiliated to the Bombay University.

62. Notwithstanding anything contained in this Act, or the Statutes, Ordinances and Regulations made thereunder, any student of a college situate within the University area and affiliated to the University of Bombay who immediately before the date on which section 5 came into force was studying or was eligible for any examination of the University of Bombay shall be permitted to complete his course in preparation therefor, and the University shall provide for such period and in such manner as may be prescribed by the Statutes for the instruction, teaching, training and examination of such students in accordance with the course of studies of the University of Bombay.

Appointment of first Vice-Chancellor.

63. Notwithstanding anything contained in section 11, the first Vice-Chancellor shall be an honorary officer who shall be appointed by the [3][State] Government as soon as practicable after the passing of this Act, for a period not exceeding three years and on such conditions as the [3][State] Government thinks fit.

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[1] These words were substituted for the words "shall be referred" by Bom. 30 of 1954, s. 6(*a*).
[2] This proviso was added, *ibid* s. 6(*b*).
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Appointment of firs Registrar.

64. Notwithstanding anything contained in section 13, the first Registrar shall be appointed by the Provincial Government as soon as practicable after the passing of this Act for a period not exceeding three years and on such conditions as the Provincial Government thinks fit.

Transitory powers of the first Vice-Chancellor.

65. (*1*) It shall be the duty of the first Vice-Chancellor—

(*a*) to give recognition to institutions, if any, as far as possible consistently with the provisions of section 35, and

(*b*) to make arrangements for constituting the Court, the Executive Council, the Academic Council and other authorities of the University,

within six months after the date of his appointment or such longer period not exceeding one year as the Provincial Government may by notification in the *Official Gazette* direct.

(*2*) The first Vice-Chancellor shall with the assistance of the Advisory Committee consisting of not more than fifteen members nominated by the Provincial Government—

(*a*) subject to the provisions of the Act and the approval of the Chancellor,—

(*i*) make provisional Statutes necessary for constituting the aforesaid authorities and regulating the procedure at their meetings and the transaction of their business,

(*ii*) draw up any rules that may be necessary for regulating the method of election to the aforesaid authorities,

(*b*) frame the first Statutes, Ordinances and Regulations under this Act and submit them for confirmation to the respective authorities when they commence to exercise their functions.

(*3*) The authorities constituted under sub-section (*1*) shall commence to exercise their functions on such date or dates as the Provincial Government may by notification in the *Official Gazette* direct.

(*4*) The Statutes, Ordinances and Regulations framed by the first Vice-Chancellor shall when confirmed by the respective authorities be published in the *Official Gazette*.

First appointment of the officers and teachers of the University.

66. (*1*) At any time after the passing of this Act until such time as the authorities of the University shall commence to exercise their functions—

(*a*) any officer of the University may be appointed by the Vice-Chancellor with the previous sanction of the Chancellor,

(*b*) teachers of the University may be appointed by the Chancellor after considering the recommendations of an Advisory Committee consisting of the Vice-Chancellor, the Director of Public Instruction and such other person or persons, if any, as the Chancellor thinks fit to associate with them.

(*2*) Any appointment made under sub-section (*1*) shall be for such period not exceeding three years and on such conditions as the appointing authority thinks fit:

Provided that no such appoint ent shall be made until financial provision has been made therefor.

Extra-ordinary powers of the first Vice-Chancellor.

67. The Vice-Chancellor appointed under section 63 shall have powers until the Executive Council commences to exercise its functions—

(*a*) with the previous approval of the Chancellor to make additional statutes to provide for any matter not provided for by the first Statutes,

(*b*) to constitute provisional authorities and bodies and on their recommendations to make rules providing for the conduct of the work of the University,

(*c*) subject to the control of the Provincial Government to make such financial arrangements as may be necessary to enable this Act or any part thereof to be brought into force,

(*d*) with the sanction of the Chancellor to make for a period not exceeding three years such appointments as may be necessary to enable this Act or any part thereof to be brought into force,

(*e*) to appoint any Committee as he may think fit, to discharge such of his functions as he may direct, and

(*f*) generally to exercise all or any of the powers conferred on the Executive Council by or under the provisions of this Act.

Removal by Provincial Government of difficulties at the commencement of the Act.

68. If any difficulty arises as to the first constitution or re-constitution of any authority of the University after the coming into force of this Act or otherwise in first giving effect to the provisions of this Act, the Provincial Government, as occasion may require, may by order do anything which appears to it necessary for the purpose of removing the difficulty.

SCHEDULE I.

[*See* section 2 (*8*).]

Areas comprised in—

I. Poona City.

II. *The following Villages in Poona City Taluka :—*

1. Bhamburda (Shivaji Nagar).
2. Aundh.
3. Bopodi.
4. Yeravda.
5. Ghorpadi.
6. Wanavadi.
7. Nundhava.
8. Parvati.
9. Yerandavne.

III. *The following Villages in Mulshi Petha :—*

1. Thergaon.
2. Tathavade.
3. Hinjawadi.
4. Man.
5. Wakad.
6. Sus.
7. Mahalunga.
8. Nanda.
9. Bavadhan Bk.
10. Bavadhan Kd.
11. Bhugaon.
12. Bhukum.
13. Lavale.
14. Chande.

IV. *The following Villages in Haveli Taluka :—*

1. Bhosari.
2. Dapodi.
3. Charholi Bk.
4. Dighi.
5. Kalas.
6. Bopkhel.
7. Vadgaon Shinde.
8. Lohagaon.
9. Dhanori.
10. Wagholi.
11. Wadgaon Sheri.
12. Kharadi.
13. Manjari Kd.
14. Manjari Bk.
15. Hadapsar.
16. Phursungi.
17. Kondhave Kd.
18. Kondhave Bk.
19. Mahamad Wadi.
20. Urali Devachi.
21. Undari.
22. Pisoli.
23. Katraj.
24. Ambegaon Kd.
25. Ambegaon Bk.
26. Dhankavadi.
27. Hingne Kd.
28. Hingne Bk.
29. Kothrud.
30. Vadgaon Bk.
31. Vadgaon Kd.
32. Varja.
33. Nanded.
34. Narhe.
35. Dhayari.
36. Kirkatwadi.
37. Nandoshi.
38. Gorha Bk.
39. Donja.
40. Khadakwasla.
41. Kopra.
42. Ahira.
43. Kondhava Dhavda.
44. Shivane.
45. Pashan.
46. Baner.
47. Pimple Nilakh.
48. Balewadi.
49. Pimple Saudagar.
50. Pimple Gurav.
51. Pimpri Vagheri.
52. Rahatni.
53. Chinchwad.
54. Akurdi.
55. Sangavi.

V. Cantonment of Poona.

VI. Cantonment of Kirkee.

SCHEDULE II.

[*See* section 2 (*16*).]

[1][PART I]

1. Poona District including the area specified in Schedule I.
[2][2. Satara North District.]
3. Ahmednagar District.
4. Sholapur District.
5. Nasik District.
6. Ratnagiri District.
7. Kolaba District.
8. Thana District.
9. East Khandesh District.
10. West Khandesh District.

[3][PART II.

11. Satara South District.
12. Kolhapur District.]

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[1] This sub-heading was inserted by Bom. 24 of 1950 s. 3 (*1*).
[2] This entry was substituted for the original, *ibid*, s. 3 (*2*).
[3] This portion was inserted, *ibid*, s. 3 (*3*).

THE BOMBAY REFUGEES ACT, 1948.

CONTENTS.

PREAMBLE.

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3. Registration Centres.
4. Registration of refugees.
5. Certificate of registration.
6. Change of address.
7. Power of Provincial Government to order refugees to reside in particular camps, places or areas and to remove themselves from such camps, places or areas.
8. Power of Provincial Government to remove refugees from any camp, place or area in the Province of Bombay.
9. Orders for vaccination and inoculation of refugees.
10. Penalties.
11. Registering, authorities and persons authorised to remove refugees to be public servants.
12. Protection of action taken under Act.
13. Certain offences to be cognizable.
14. Delegation of functions.
15. Rules.
16. Power of exemption.

FIRST SCHEDULE.

SECOND SCHEDULE.

BOMBAY ACT No. XXII OF 1948.[1]

[THE BOMBAY REFUGEES ACT, 1948.]

[*29th March 1948*]

Amended by Bom. 66 of 1948.

Adapted and modified by the Adaptation of Laws Order, 1950.

An Act to provide for compulsory registration and movement of refugees and for certain other purposes.

WHEREAS [2][it is expedient to provide for the registration and to regulate the movement of refugees with a view to facilitating their relief and rehabilitation and to securing public health, sanitation and safety and for certain other purposes herein specified]; It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Bombay Refugees Act, 1948.

(*2*) It extends to the whole of the [3][State] of Bombay.

Interpretation.

2. In this Act, " refugee " means any person who has since the first day of August 1947, entered the [3][State] of Bombay, having left his place of residence elsewhere on account of civil disturbances in that place or the fear of such disturbances.

Registration Centres.

3. In Greater Bombay the Commissioner of Police for the Greater Bombay and elsewhere the District Magistrate shall, as soon as may be, by a general or special order, establish in respect of—

(*a*) each camp in which refugees are being accommodated, and

(*b*) each particular area specified by him, a registration centre for the registration of refugees, and shall appoint a person or a committee of persons to be the registering authority in charge of each such centre :

[4][Provided that the [5][State] Government may, from time to time by notification in the *Official Gazette*, direct that the functions of the Commissioner of Police or the District Magistrate under this section shall be performed by any other officer specified in such notification.]

Registration of refugees.

4. (*1*) Every refugee for the time being in the [3][State] of Bombay shall, within fifteen days from the coming into operation of this Act or within seven days from the date of his arrival in the [3][State] whichever is later, register himself at the registration centre of the camp in which he is being accommodated or if he is being accommodated or is residing elsewhere than in a camp for which a registration centre has been established, at the registration centre of the area in which he is being accommodated or is residing :

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 115.

[2] This portion was substituted for the original by Bom. 66 of 1948, s. 2.

[3] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.

[4] This proviso was added by Bom. 66 of 1948, s. 3.

[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Provided that a refugee who is the head of a family shall be responsible for the registration of members of his family for the time being with him :

Provided further that where a refugee is a female, a minor, a lunatic, an idiot or a person incapable by reason of being sick or infirm of attending at the registration centre, the person who may for the time being be looking after such refugee shall be responsible for his registration.

(*2*) A refugee registering under sub-section (*1*) or a person responsible for registration of a refugee under the said sub-section (*1*) shall, to the best of his ability, correctly fill up, or cause so to be filled up, the form set out in the First Schedule.

Certificate of registration.

5. The registering authority shall issue to every refugee registering under this Act a certificate of registration in the form set out in the Second Schedule.

Change of address.

6. (*1*) If a refugee ceases to reside at the address recorded in the certificate of registration issued under section 5, he shall, within seven days of any such change of address, intimate his new address to the registering authority by which the certificate of registration was issued and if the new address is within the jurisdiction of another registering authority, to that other registering authority, and shall at the same time forward the certificate of registration to that other registering authority in order that the new address may be entered therein :

Provided that where a refugee is not the head of the family, the head of the family, and where a refugee is a female, a minor, a lunatic, an idiot or a sick or infirm person, the person who may for the time being be looking after such refugee shall intimate the change of address and forward the certificate of registration to the registering authority as aforesaid.

(*2*) Nothing in sub-section (*1*) shall apply where the change of address recorded in the certificate of registration is due to a temporary absence not intended to exceed [1][three months] in duration.

Power of [2][State] Government to order refugees to reside in particular camps, places or areas and to remove themselves from such camps, places or areas.

7. The [2][State] Government may, by order in writing, direct any refugee or class of refugees to reside in any camp or place or within any area or to leave any camp or place or area and go to and reside in any other camp or place or area in the [3][State] of Bombay within a period specified in such order.

Power of [2][State] Government to remove refugees from any camp, place or area in the [2][State] of Bombay.

8. If any refugee fails to leave any camp, place or area, in accordance with an order made under section 7, he may be removed by any police officer or any person authorised by the [2][State] Government in this behalf from such camp, place or area in such manner as may be specified by the [3][State] Government by a general or special order.

Nothing in this section shall affect the liability of such refugee to the penalty provided in section 10.

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[1] These words were substituted for the words " thirty days " by Bom. 66 of 1948, s. 4.
[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950
[3] This word was substituted for the word " Province "; *ibid.*

Orders of vaccination and inoculation of refugees.

9. (*1*) An officer authorised by the Provincial Government in this behalf may, by order in writing, require a refugee or any person responsible for the registration of a refugee under sub-section (*1*) of section 4, to get himself or the refugee for whose registration he is so responsible vaccinated against small-pox or inoculated against plague, cholera or typhoid within fifteen days of such order, except where a certificate is produced from a registered medical practitioner or from a vaccinator or inoculator duly authorised by the Provincial Government in that behalf that such refugee has been vaccinated or revaccinated or inoculated, as the case may be, by him within six months immediately preceding the date of the order.

(*2*) Nothing in this section shall affect the liability of any person to get himself or any other person vaccinated or inoculated under any law for the time being in force.

Penalties.

[1][**10.** (*1*) Whoever refuses or without lawful excuse neglects to comply with the requirements of section 4 or 6 shall, on conviction, be punished with fine which may extend to two hundred rupees.

(*2*) Whoever gives particulars in filling the form under sub-section (*2*) of section 4 which are false and which he either knows or believes to be false or whoever contravenes any other provisions of this Act or any rule made thereunder or any order made in pursuance of this Act shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.]

Registering authorities and persons authorised to remove refugees to be public servants.

11. Every person or member of a committee appointed as a registering authority under section 3 and every person authorised by the Provincial Government to remove a refugee under section 8 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Protection of action taken under Act.

12. No suit, prosecution or other legal proceeding shall lie against any person in respect of anything in good faith done or intended to be done under this Act or any rule or order made thereunder.

Certain offences to be cognizable.

[2][**13.** All offences under this Act except offences under sub-section (*1*) of section 10 shall be cognizable.]

Delegation of functions.

14. The Provincial Government may, by order notified in the *Official Gazette*, direct that any power conferred or any duty imposed on it by this Act, shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer, not being in the opinion of the Provincial Government below the rank of a Collector, as may be so specified.

Rules.

15. (*1*) The Provincial Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*i*) the preparation and maintenance of registers of refugees registered under section 4;

(*ii*) the manner of service on refugees of orders made under this Act; and

(*iii*) the vaccination and inoculation of refugees under section 9.

[1] This section was substituted for the original by Bom. 66 of 1948, s. 5.
[2] This section was substituted for the original by Bom. 66 of 1948, s. 6.

Power of exemption.

[1][16. (*1*) The Provincial Government may, by notification in the *Official Gazette*, direct that refugees from any particular area or place or any class of refugees shall be exempt from all or any of the provisions of this Act or any requirements thereof.

(*2*) An officer authorised in this behalf by the Provincial Government may, for reasons to be recorded in writing, order that any refugee shall be exempt from all or any of the provisions of this Act or any requirements thereof.]

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[2][FIRST SCHEDULE.

[*See* section 4 (*2*).]

Form of Registration.

GOVERNMENT OF BOMBAY.

REGISTRATION OF REFUGEES.

(1) Name of the applicant in full (in capital letters with surname first).

(2) Age ... ...

(3) Sex ... ...

(4) Whether married or single ...

(5) Names of dependents at present in the Province of Bombay, their relationship, ages and sex.

(6) Names of dependents left behind, if any, in the place which he has left, their relationship, ages and sex.

(7) Address prior to evacuation: Village, Tehsil, District (in detail).

(8) Present address (Building, Floor, Street, Road, etc.

(9) Details of identity documents and other papers relating to evacuation, if any, with the applicant.

(10) Period of residence at place which he has left.

(11) Date and place of arrival in the Province of Bombay.

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[1] This section was inserted by Bom. 66 of 1948, s. 7.

[2] This schedule was substituted for the original, *ibid.*, s. 8.

(12) Any moveable or immovable property lost or left at the place which he has left or elsewhere and its value.

(13) Whether any property sold prior to evacuation. If so, its details and the price at which it was sold.

(14) Academical and technical qualifications.

(15) Occupation, profession or trade and monthly income prior to evacuation.

(16) Aptitude for any occupation, profession or trade other than that followed prior to evacuation.

(17) Details of land taken, if any, for settling either in the [1][State] of Bombay or elsewhere in [2][India].

(18) Means of maintenance at present.

(19) Resources possessed at present.

(20) Details of facilities or assistance received, if any, at present either through official or non-official sources.

(21) Whether any facilities or assistance required for rehabilitation. If so, their details.

(22) Whether he wishes to stay in the [1][State] of Bombay. If so, for how long.

(23) Whether willing to go outside the [1][State] of Bombay. If so, the place he wishes to proceed to.

Remarks—

Signature/Left hand thumb impression and/or Photograph of the applicant, *if available.*

Place 195 .

Registering Authority.]

[1] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the words "the Indian Union", *ibid.*

SECOND SCHEDULE.

(*See* section 5.)

Form of Certificate of Registration.

GOVERNMENT OF BOMBAY.

POLITICAL AND SERVICES DEPARTMENT.

Serial Number .....

Reception Camp Number .....

Registration Office Number .....

Name of refugee in full .....

Address before evacuation .....

Present address .....

Name of head of family .....

1* * * .....

Signature or finger print of refugee .....

Office of registration .....

Registered by .....

Date .....

Place 195 .

Registering Authority.

[1] The entry "Dentification marks" was deleted by Bom. 66 of 1948, s. 9.

THE BOMBAY BUILDING (CONTROL ON ERECTION, RE-ERECTION AND CONVERSION) ACT, 1948.

CONTENTS.

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1. Short title and extent.
2. Definitions.
3. Appointment of Controllers of Buildings.
4. Application for permission to erect or re-erect buildings or to continue to erect or re-erect building or for conversion.
5. [*Deleted.*]
6. Right of appeal.
7. Bar of compensation.
8. Saving of other enactments.
9. Penalties.
10. Offence by companies, etc.
11. Power of entry, etc.
12. Protection of persons acting under this Act.
13. Savings.
14. Power to make rules.
14A. Delegation of Controller's powers to Housing Board constituted under Bom. LXIX of 1948.
15. Repeal.

SCHEDULE.

BOMBAY ACT No. XXXI OF 1948.[1]

[THE BOMBAY BUILDING (CONTROL ON ERECTION, RE-ERECTION AND CONVERSION) ACT, 1948.]

[*10th April 1948*]

Amended by Bom. 69 of 1948.
" " " 15 of 1950.†
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 53 of 1953.
" " " 58 of 1954.

An Act to provide for the control on [2][erection, re-erection and conversion] of buildings in the Province of Bombay.

WHEREAS with a view to providing better housing accommodation and securing economic and orderly building development [3][and the proper location of buildings erected or re-erected for the purposes of public amusements and industrial undertakings to avoid overcrowding and nuisances] it is necessary to provide for the control on the erection and re-erection of buildings in the Province of Bombay [3][and their conversion] and for certain other purposes; It is hereby enacted as follows :—

Short title, [8][extent and application].

1. (*1*) This Act may be called the Bombay Building (Control on Erection [4][Re-erection and Conversion]) Act, 1948.

(*2*) It extends to the areas specified in the Schedule.

(*3*) The [5][State] Government may, by notification in the *Official Gazette*, direct that it shall also extend to any other area specified in such notification.

[6]* * * * * * *

[7][(*4*) In the areas to which this Act extends for the time being, the provisions thereof shall, after the date of the commencement of the Bombay Building (Control on Erection) (Amendment) Act, 1950, apply only to buildings which are intended to be used for the purpose of a theatre, a cinema or any other place of public amusement :

Bom. XV of 1950.

Provided that in the City of Bombay, the Bombay Suburban District and the Thana Taluka of the Thana District, the said provisions shall after the aforesaid date apply also to buildings intended to be used for an industrial undertaking.]

[9][Provided further that the State Government may by notification in the *Official Gazette* direct that the provisions of this Act shall apply to such areas, such of the aforesaid classes of buildings and from such date as may be specified in the notification.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Pt. V, page 157.
[2] These words were substituted for the words " erection and re-erection ", by Bom. 53 of 1953, s. 2.
[3] This portion was inserted, *ibid.*, s. 3.
[4] These words were inserted, *ibid.*, s. 4(*1*).
[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[6] The words beginning with the words " The Provincial Government may further " and ending with the words " in the notification " were deleted by Bom. 15 of 1950, s. 2(*1*).
[7] This sub-section was inserted, *ibid.*, s. 2(*2*).
[8] These words were substituted for the words " and extent ", *ibid.*, s. 2(*3*).
[9] This proviso was added by Bom. 53 of 1953, s. 4(*2*).

†Section 6 of the Bombay Building (Control on Erection) (Amendment) Act, 1950 (Bom. 15 of 1950), reads as under:—

Savings.

6. The amendments made in the said Act by this Act shall not affect—

(*1*) any right, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(*2*) any penalty, forfeiture or punishment incurred in respect of any offence committed before the commencement of this Act, or

(*3*) any legal proceeding or remedy in respect of any such right, obligation, liability, penalty, forfeiture or punishment or anything done or suffered before the commencement of this Act,

and any such legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed.

Definitions.

2. In this Act, unless there is anything repugnant to the subject or context,—

(*i*) "building" means a house, out-house, stable, shed, hut and every other structure, involving use of bricks, cement, asbestos cement sheets, iron, steel or any other material which the [1][State] Government may by notification in the *Official Gazette* specify.

Explanation.—Use of iron or steel by way of nails or screws or doors, windows and fastenings shall not be deemed to be use of iron or steel within the meaning of this definition.

(*ii*) "Controller" means the person appointed as such under section 3;

[2][(*ii-a*) "conversion of a building" means to use or permit to be used for the purpose of an industrial undertaking, any building to which this Act applies, which was erected, re-erected, or used, or intended to be used, for any other purpose; and "to convert" shall be construed accordingly:

Provided that a building shall not be deemed to be used or permitted to be used for an industrial undertaking by reason only of its being used as a godown, storehouse or warehouse; but any change in the use of such building for the purpose of any other industrial undertaking shall be deemed to be a conversion of the same.]

(*iii*) "erection or re-erection of a building" includes any alteration to, or enlargement of, or addition to, any building; and the expression "erect or re-erect a building" shall be construed accordingly;

(*iv*) "prescribed" means prescribed by rules made under this Act;

[3]* * * * * *

Appointment of Controllers of Buildings.

3. The [1][State] Government may, by notification in the *Official Gazette*, appoint for any area one or more persons to be the Controllers of Buildings for the purposes of this Act.

Application for permission to erect or re-erect buildings, or to continue to erect or re-erect building [6][or for conversion].

4. (*1*) Every person desiring to commence the work of erection or re-erection of a building or to continue the work of erection or re-erection of a building commenced before the date on which this Act has come into force [4][and every person desiring to convert a building] shall make an application in writing to the Controller for permission to do so. The application shall be in such form and contain such information in respect of the building to which the application relates as may be prescribed.

(*2*) On receipt of such application the Controller, after making such enquiry as he considers necessary, shall, [5][subject to such general or special orders as the State Government may make in this behalf,] by order in writing either—

(*a*) grant the permission subject to such conditions, if any, as may be specified in the order; or

(*b*) refuse to grant such permission:

[7]* * * * * * *

(*3*) If at the expiration of a period of [8][three months] after an application under sub-section (*1*) has been received by the Controller no order in writing has been passed by the Controller permission shall be deemed to have been granted without imposition of any condition.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This clause was inserted by Bom. 53 of 1953, s. 5.
[3] Clause (*v*) was deleted by Bom. 15 of 1950, s. 3.
[4] These words were inserted by Bom. 53 of 1953, s. 6 (*1*).
[5] These words were inserted, *ibid.*, s. 6(*2*).
[6] These words were added, *ibid*, s. 6 (*3*).
[7] Proviso and Explanation in sub-section (*2*) were deleted by Bom. 15 of 1950, s. 4.
[8] These words were substituted for the words "One month" by Bom. 58 of 1954, s. 2, Schedule.

5. [*Revocation or modification of permission by State Government.*] *Deleted by Bom. 53 of 1953, s. 7.*

6. (*1*) Any person aggrieved by an order of the Controller under sub-section (*2*) of section 4 may, within thirty days from the date of the communication of such order to him, prefer an appeal to the [1][State] Government. Right of appeal.

(*2*) The order of the [1][State] Government on appeal shall be final.

7. No compensation shall be claimed by any person for any damage or loss sustained by him in consequence of— Bar of Compensation.

(*a*) any order of the Controller under sub-section (*2*) of section 4; or

(*b*) any order passed by the [1][State] Government under section [2]* * 6; or

(*c*) anything which is in good faith done or intended to be done under this Act.

8. Nothing in this Act shall affect the power of any authority to impose restrictions upon the erection or re-erection of a building, [3][or the conversion of a building] under any other enactment for the time being in force. Saving of other enactments.

9. (*1*) No work of [4][erection, re-erection or conversion] of a building shall be commenced, continued or carried out without the permission of the Controller granted under section 4 or [5][in contravention of any conditions imposed by an order under section 4 or 6.] Penalties.

[6][(*2*) Where any work of erection, re-erection or conversion of a building is commenced, continued or carried out in contravention of sub-section (*1*), the person at whose expense the work of erection, re-erection or conversion of the building is commenced, continued or carried out and any other person undertaking the commencement, continuance or carrying out of such work and any architect, engineer or other person employed in an advisory or supervisory capacity in the commencement, continuance or carrying out of such work shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.]

(*3*) Any court trying an offence under sub-section (*2*) may order the forfeiture to [7][Government] of all materials which the court is satisfied were collected, purchased or otherwise obtained for the work of erection or re-erection.

10. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every person who at the time of the commission of the offence was a director, manager, secretary, agent, or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be liable to the punishment provided for the offence. Offence by companies etc.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] The figure and word "5 or" were deleted by Bom. 53 of 1953, s. 8.
[3] These words were inserted, *ibid.*, s. 9.
[4] These words were substituted for the words "erection or re-erection", *ibid.*, s. 10 (*1*).
[5] This portion was substituted for the portion beginning with the words "after such permission" and ending with the figures and word "5 or 6", *ibid.*
[6] This sub-section was substituted for the original by Bom. 53 of 1953, s. 10 (2).
[7] This word was substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950.

Power of entry, etc.

11. (*1*) Any person not below the rank of a Gazetted Officer authorised in this behalf by the [1][State] Government by general or special order may—

(*a*) enter and inspect any land on which he has reason to believe that the work of [2][erection or re-erection or conversion] of a building is being commenced, continued or carried out in contravention of the provisions of this Act;

(*b*) ask of any person such questions as he deems necessary for carrying out the purposes of this Act;

(*c*) ask any person at whose expense the work of erection or re-erection [3][or conversion of a building] is commenced, continued or carried out or any person engaged in the carrying out of such work to produce or furnish such books or documents or other information being documents or information in his possession, relating to such work;

(*d*) seize any material which he has reason to believe have been collected, purchased or otherwise obtained for the work of erection or re-erection of a building in contravention of the provisions of this Act and subject to the provisions of sub-section (*3*) of section 9 dispose of them in the prescribed manner.

(*2*) Whoever voluntarily obstructs any person authorised under sub-section (*1*) in the exercise of any powers conferred by that sub-section or refuses to answer or wilfully gives a false answer to any question asked of him or refuses to produce or furnish any books, documents or other information as required under the said sub-section [4][shall, on conviction, be punished] with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Protection of persons acting under this Act.

12. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Savings.

13. Nothing in this Act shall apply to—

(*a*) alterations in a building [5][not being a conversion and] not involving increase in the existing plinth area or roof area or in the total height of the building;

(*b*) re-erection of a dilapidated part of a building [6][not being a conversion and] not involving re-erection of the whole building or, in the case of a storeyed building, of the whole storey;

(*c*) [7]* * * furnaces, fire-places, flues, chimneys, washing places, drainage lines, latrines, urinals, septic tanks or manholes and inspection chambers for drains;

(*d*) storage tanks or wells;

(*e*) boundary walls, compound walls and fencings;

(*f*) the erection [8][, re-erection or conversion of a building]—

(*i*) which is undertaken or carried out on behalf of the Government or a local authority or in pursuance of a contract with the Government or a local authority, or

(*ii*) the cost of which, or any part of the cost of which, the Government or a local authority has agreed to pay.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the words "erection or re-erection" by Bom. 53 of 1953, s. 11 (*1*).
[3] These words were inserted, *ibid.*
[4] These words were substituted for the words "shall be punishable", *ibid*, s. 11 (*2*).
[5] These words were inserted, *ibid*, s. 12 (*1*).
[6] These words were inserted, *ibid*, s. 12 (*2*).
[7] The words "machinery foundations" were deleted by Bom. 53 of 1953, s. 12 (*3*).
[8] These words were substituted for the words "or re-erection of a building", *ibid.*, s. 12 (*4*).

Power to make rules.

14. (*1*) The [1][State] Government may, by notification in the *Official Gazette*, make rules to carry into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*i*) the form of application and the information to be supplied under sub-section (*1*) of section 4 ;

(*ii*) the manner in which persons authorized under sub-section (*1*) of section 11 shall exercise their powers and dispose of the materials seized under clause (*d*) of the said sub-section.

Delegation of Controller's powers to Housing Board constituted under Bom. LXIX of 1948.

[2][**14A.** Notwithstanding anything contained in this Act, the [2][State] Government may direct that the powers conferred and duties imposed upon the Controller under this Act, shall in the area in which the Bombay Housing Board Act, 1948, has come into force, be exercised and performed by the Housing Board constituted under the said Act.]

Bom. LXIX of 1948.

Repeal.

15. (*1*) The Bombay Building (Control on Erection) Ordinance, 1948, is hereby repealed ; and it is hereby declared that the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904, shall apply to the repeal as if that Ordinance were an enactment.

Bom. Ordinance No. I of 1948.

Bom. I of 1904.

(*2*) Notwithstanding the repeal of the said Ordinance, any application made under sub-section (*1*) of section 4 of that Ordinance prior to the commencement of this Act shall be deemed to have been made under the corresponding provision of this Act :

Provided that the period of one month mentioned in sub-section (*3*) of section 4 of this Act shall be deemed to commence and run from the date on which such application was received by the Controller.

SCHEDULE.

1. The City of Bombay.
2. The Bombay Suburban District.
3. The Thana Taluka of the Thana District.

[3]* * * * *

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This section was inserted by Bom. 69 of 1948, s. 75 and Schedule.
[3] Entries 4 to 6 were deleted by Bom. 15 of 1950, s. 5.

THE CODE OF CRIMINAL PROCEDURE (BOMBAY AMENDMENT) ACT, 1948.

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3. Amendment of heading "C" in chapter II of Act V of 1898.
4. Amendment of section 267 of Act V of 1898.
5. Amendment of section 268 of Act V of 1898.
6. Amendment of section 269 of Act V of 1898.
7. Amendment of section 274 of Act V of 1898.
8. Amendment of section 276 of Act V of 1898.
9. Amendment of section 277 of Act V of 1898.
10. Amendment of section 296 of Act V of 1898.
11. Amendment of section 305 of Act V of 1898.
12. Amendment of section 306 of Act V of 1898.
13. Amendment of heading "J" in Chapter XXIII of Act V of 1898.
14. Amendment of section 312 of Act V of 1898.
15. Amendment of section 315 of Act V of 1898.
16. Amendment of heading "K" in Chapter XXIII of Act V of 1898.
17. Amendment of heading "L" in Chapter XXIII of Act V of 1898.
18. Amendment of section 333 of Act V of 1898.
19. Amendment of sections 354 and 356 of Act V of 1898.
20. Amendment of section 373 of Act V of 1898.
21. Amendment of section 413 of Act V of 1898.
22. Amendment of section 435 of Act V of 1898.
23. Amendment of section 436 of Act V of 1898.
24. Amendment of section 437 of Act V of 1898.
25. Amendment of section 438 of Act V of 1898.
26. Amendment of section 449 of Act V of 1898.
27. Amendment of section 554 of Act V of 1898.
28. Amendment of form No. XXVIII of Schedule V to Act V of 1898.
29. Transitory provision.

[THE CODE OF CRIMINAL PROCEDURE (BOMBAY AMENDMENT) ACT, 1948.]

[*10th April 1948.*]

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

V of 1898. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :--

Short title and commencement.

1. (*1*) This Act may be called the Code of Criminal Procedure (Bombay Amendment) Act, 1948.

(*2*) It shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* appoint.

Amendment of section 7 of Act V of 1898.

V of 1898. **2.** In section 7 of the Code of Criminal Procedure, 1898 (hereinafter called the said Code),—

(*a*) in sub-section (*1*), the brackets and words "(excluding the presidency-towns)" shall be deleted; and

(*b*) after sub-section (*1*), the following new sub-section shall be inserted, namely :—

Greater Bombay to be sessions division.

"(*1A*) For the purposes of this Code, Greater Bombay shall be a sessions division."

Amendment of heading "C" in Chapter II of Act V of 1898.

3. In Chapter II of the said Code, for the heading "*C—Courts and Offices outside the Presidency-towns*" the heading "*C—Court of Session for Greater Bombay and Courts and Offices outside Greater Bombay*" shall be substituted.

Amendment of section 267 of Act V of 1898.

4. In the marginal note of section 267 of the said Code after the words "High Court" and in section 267 of the said Code after the words "High Court" where they occur for the first time, the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 268 of Act V of 1898.

5. In section 268 of the said Code, at the beginning the words and figures "Subject to the provisions of section 267" shall be inserted.

Amendment of section 269 of Act V of 1898.

6. In sub-section (*1*) of section 269 of the said Code, after the word "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 274 of Act V of 1898.

7. In section 274 of the said Code,—

(*a*) in sub-section (*1*), after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted; and

(*b*) in sub-section (*2*), for the words "before the Court" the words "before any other Court" shall be substituted.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette* 1948, Part V, page 12.

Amendment of section 276 of Act V of 1898.

8. In section 276 of the said Code, in clause *thirdly* of the proviso, after the words "of such High Court" the words "or before the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 277 of Act V of 1898.

9. In sub-section (2) of section 277 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 296 of Act V of 1898.

10. In section 296 of the said Code, after the words "such Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 305 of Act V of 1898.

11. In the marginal note of section 305 and in sub-section (*1*) of section 305 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 306 of Act V of 1898.

12. In sub-section (*1*) of section 306 of the said Code, after the word "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted.

Amendment of heading "*J*" in Chapter XXIII of Act V of 1898.

13. In Chapter XXIII of the said Code, in the heading "*J*"—

(*a*) after the words "*High Court*" the words "*and the Court of Session for Greater Bombay*" shall be inserted; and

(*b*) for the words "*that Court*" the words "*such Courts*" shall be substituted.

Amendment of section 312 of Act V of 1898.

14. In section 312 of the said Code, after the word "list" the words "for the High Court and the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 315 of Act V of 1898.

15. In section 315 of the said Code, for the words "in the town which is the usual place sitting of each High Court" the words "of the High Court in the town which is the usual place of sitting of such High Court and for each sessions of the Court of Session for Greater Bombay" shall be substituted.

Amendment of heading "*K*" in Chapter XXIII of Act V of 1898.

16. In Chapter XXIII of the said Code, in the heading "*K*", after the words "*Court of Session*" the words "*other than the Court of Session for Greater Bombay*" shall be inserted.

Amendment of heading "*L*" in Chapter XXIII of Act V of 1898.

17. In Chapter XXIII of the said Code, in the heading "*L*", after the words "*High Courts*" the words "*and the Court of Session for Greater Bombay*" shall be inserted.

18. In section 333 of the said Code, after the words "before a High Court" the words "or the Court of Session for Greater Bombay" shall be inserted. Amendment of section 333 of Act V of 1898.

19. In the marginal notes of sections 354 and 356, the words "outside presidency-towns" shall be deleted. Amendment of sections 354 and 356 of Act V of 1898.

20. For the marginal note to section 373 of the said Code the marginal note "Copy of finding and sentence to be sent to District Magistrate or Commissioner of Police" shall be substituted and to section 373 of the said Code, the following proviso shall be added, namely:— Amendment of section 373 of Act V of 1898.

"Provided that the Court of Session for Greater Bombay shall send such copy to the Commissioner of Police for Greater Bombay."

21. In section 413 of the said Code,— Amendment of section 413 of Act V of 1898.

(*a*) after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted;

(*b*) for the words "a Court of Session" where they occur for the first time the words "any other Court of Session" shall be substituted; and

(*c*) after the words "Court of Session" where they occur for the second time the words "other than that for Greater Bombay" shall be inserted.

22. In sub-section (*1*) of section 435 of the said Code, after the words "any Sessions Judge" the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted. Amendment of section 435 of Act V of 1898.

23. In section 436 of the said Code, after the words "Sessions Judge" the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted. Amendment of section 436 of Act V of 1898.

24. In section 437 of the said Code, after the words "Sessions Judge" where they occur for the first time the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted. Amendment of section 437 of Act V of 1898.

25. In sub-section (*1*) of section 438 of the said Code, after the words "Sessions Judge" the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted. Amendment of section 438 of Act V of 1898.

26. In sub-section (*1*) of section 449 of the said Code, after clause (*c*) the following shall be inserted, namely:— Amendment of section 449 of Act V of 1898.

or,

(*d*) "a case is tried by jury in the Court of Session for Greater Bombay, which if it had been tried outside a Presidency-town, have been triable under the provisions of this Chapter,".

Amendment of section 554 of Act V of 1898.

27. In section 554 of the said Code, after sub-section (*1*) the following new sub-section shall be inserted, namely :—

Power of High Court of Bombay to make rules for Court of Session for Greater Bombay.

"(*1A*) With the previous sanction of the Provincial Government, the High Court of Judicature at Bombay may also make rules for regulating the practice and proceedings of the Court of Session for Greater Bombay."

Amendment of form No. XXVIII of Schedule V to Act V of 1898.

28. In form No. XXVIII—Charges—in Schedule V to the said Code, the brackets and words "[*when the charge is framed by a Presidency Magistrate, for* Court of Session *substitute* High Court]" shall be deleted.

Transitory provision.

29. Nothing in this Act shall affect any case, appeal or proceeding pending in the High Court on the date this Act comes into force and every such case, appeal or proceeding shall be tried, heard and disposed of as if this Act had not been passed.

THE BOMBAY LAND REQUISITION ACT, 1948.

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SCHEDULE.

BOMBAY ACT No. XXXIII OF 1948.[1]

[THE BOMBAY LAND REQUISITION ACT, 1948.]

[*11th April 1948*]

Amended by Bom. 2 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 39 of 1950.*
" " " 9 of 1951.
" " " 40 of 1951.
" " " 5 of 1952.
" " " 5 of 1953.
" " " 17 of 1955.
" " " 52 of 1955.

An Act to provide for the requisition of land, for the continuance of requisition of land and for certain other purposes.

26 Geo. 5 Ch. 2. WHEREAS the Governor-General in exercise of the powers conferred on him by section 104 of the Government of India Act, 1935, has, by the Government of India, Ministry of Law, Notification No. F. 311/47-C & G., dated the 21st October 1947, empowered all Provincial Legislatures to enact laws with respect to the requisition of land ;

AND WHEREAS it is expedient to provide for the requisition of land, for the continuance of requisition of land and for certain other purposes ; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Bombay Land Requisition Act, 1948.

Extent. **2.** (*1*) This Act shall extend to the areas specified in the Schedule hereto annexed and shall continue to extend to any such area notwithstanding that the area ceases to be of the description therein specified.

(*2*) The [2][State] Government may, by notification in the *Official Gazette* extend any or all of the provisions of this Act to any other area and on such date as may be specified in the notification.

(*3*) The [2][State] Government may, at any time by like notification, direct that any or all of the provisions of this Act shall cease to extend to any area and on such date as may be specified in the notification ; and on that date the said provisions shall cease to be in force in such area.

Duration. **3.** (*1*) This Act shall remain in force up to and inclusive of the 31st day of [3][December 1958].

[4]* * * * * * *

Bom. I of 1904. (*2*) Section 7 of the Bombay General Clauses Act, 1904, shall apply upon the expiry of this Act or upon this Act or any provision thereof ceasing to be in force in any area, as if it had then been repealed by a Bombay Act :

[5][Provided that after the expiry of this Act, all orders of requisition made under this Act or deemed to have been made thereunder and in operation immediately before the date of the said expiry shall continue in operation for a further period of one year from the date of the said expiry and the provisions of this Act applicable

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 216.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This word and figures were substituted for the word and figures "March 1956," by Bom. 52 of 1955, s. 2.

[4] The proviso was deleted by Bom. 2 of 1950, s. 2(*2*).

[5] This proviso was added by Bom. 5 of 1952, s. 2(*2*).

* Section 6 of Bom. 39 of 1950, reads as follows :—

6. *Amendment to have retrospective effect.*—The amendments made by this Act shall be deemed to have been and always to have been made with effect from the 26th January 1950, and all orders for requisition made under sections 5, 6 and 7 of the said Act on or after that date shall be deemed to have been made under the said Act as amended by this Act, and no such order shall be called into question in any Court merely on the ground that the amendments made by this Act were not at the date of such order included in the aforesaid provisions under which the said order was made.

to the said orders or anything done in pursuance of the said orders shall continue to apply to such orders and things as if this Act had not expired.]

Definitions.

4. In this Act, unless there is anything repugnant to the subject or context—

(*1*) " land " includes benefits to arise out of land, and buildings and all things attached to the earth or permanently fastened to the buildings or things attached to the earth ;

(*2*) " landlord " means any person who is, for the time being, receiving, or entitled to receive, rent in respect of any premises whether on his own account or on account, or on behalf, or for the benefit, of any other person, or as a trustee, guardian, or receiver for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant ; and includes any person, not being a tenant, who from time to time derives title under a landlord ; and further includes in respect of his sub-tenant a tenant who has sublet any premises ;

(*3*) " premises " means any building or part of a building let or intended to be let separately including—

(*i*) the garden, grounds, garages and out-houses, if any, appurtenant to such building or part of a building ;

(*ii*) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof,

but does not include a room or other accommodation in a hotel or lodging house ;

(*4*) " prescribed " means prescribed by rules made under this Act ;

(*5*) " to requisition " means in relation to any land to take possession of the land or to require the land to be placed at the disposal of the [1][State] Government.

Requisition of land.

5. (*1*) If in the opinion of the [1][State] Government it is necessary or expedient so to do, the [1][State] Government may by order in writing requisition any land for [2][purpose of the State or any other public purpose] :

Provided that no building or part thereof wherein the owner, the landlord or the tenant, as the case may be, has actually resided for a continuous period of six months immediately preceding the date of the order shall be requisitioned under this section.

(*2*) Where any building or part thereof is to be requisitioned under sub-section (*1*), the [1][State] Government shall make such enquiry as it deems fit and make a declaration in the order of requisition that the owner, the landlord or the tenant, as the case may be, has not actually resided therein for a continuous period of six months immediately preceding the date of the order and such declaration shall be conclusive evidence that the owner, landlord or tenant has not so resided.

Requisition of vacant premises.

6. (*1*) If any premises situate in an area specified by the [1][State] Government by notification in the *Official Gazette*, are vacant on the date of such notification and wherever any such premises are vacant or become vacant after such date by reason of the landlord, the tenant or the sub-tenant, as the case may be, ceasing to occupy the premises or by reason of the release of the premises from requisition or by reason of the premises being newly erected or reconstructed or for any other reason the landlord of such premises shall give intimation thereof in the prescribed form to an officer authorised in this behalf by the [1][State] Government.

(*2*) The intimation shall be given [3][by registered post] within one month of the date of the notification in the case of premises which are vacant on such date and in other cases within seven days of the premises becoming vacant or becoming available for occupation.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the words "any purpose" by Bom. 39 of 1950, s. 2.
[3] These words were substituted for the words "by post" by Bom. 5 of 1952, s. 3 (*1*).

(*3*) A landlord shall not, without the permission of the [1][State] Government let, occupy, or permit to be occupied such premises before giving the intimation and for a period of one month from the date on which the intimation is received.

(*4*) Whether or not an intimation under sub-section (*1*) is given and notwithstanding anything contained in section 5, the [1][State] Government may by order in writing—

(*a*) requisition the premises [2][for the purpose of the State or any other public purpose and may use or deal with the premises for any such purpose] in such manner as may appear to it to be expedient ; or

[3]* * * * * *

Provided that where an order is to be made under clause (*a*) [4][requisitioning the] premises in respect of which no intimation is given by the landlord, the [1][State] Government shall make such inquiry as it deems fit and make a declaration in the order that the premises were vacant or had become vacant, on or after the date referred to in sub-section (*1*) and such declaration shall be conclusive evidence that the premises were or had so become vacant :

[5]* * * * * *

(*5*) Any landlord who fails to give such intimation within the period specified in sub-section (*2*) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both and any landlord who lets, occupies or permits to be occupied the premises in contravention of the provisions of sub-section (*3*), shall, on conviction, be punished with imprisonment for a term which may extend to one year and shall also be punished with fine.

Explanation.—For the purposes of this section,—

(*a*) premises which are in the occupation of the landlord, the tenant or the sub-tenant, as the case may be, shall be deemed to be or become vacant when such landlord ceases to be in occupation or when such tenant or sub-tenant ceases to be in occupation upon termination of his tenancy, eviction, assignment or transfer in any other manner of his interest in the premises or otherwise, notwithstanding any instrument or occupation by any other person prior to the date when such landlord, tenant or sub-tenant so ceases to be in occupation ;

(*b*) premises newly erected or re-constructed shall be deemed to be or become vacant until they are first occupied after such erection or reconstruction.

Continuance of requisition.

7. (*1*) Notwithstanding anything contained in the Requisitioned Land (Continuance of Powers) Act, 1947, the [1][State] Government may, by order in writing, direct that any land which was continued under requisition under the said Act, shall continue to be subject to requisition under this Act [6][for any purpose of the State or any other public purpose] when it is released from requisition under the said Act or ceases to be subject to requisition for any reason ; and the [1][State] Government may [7][for any such purpose] use or deal with the land so continued to be subject to requisition in such manner as may appear to it to be expedient.

XVII of 1947.

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[1] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] This portion was substituted for the words "and may use or deal with the premises" by Bom. 39 of 1950, s. 3.

[3] Clause (*b*) was deleted by Bom. 5 of 1952, s. 3 (*2*).

[4] These words were substituted for the words, brackets and letter " or (*b*) requisitioning or requiring to let " *ibid.*

[5] The second proviso was deleted, *ibid.*

[6] These words were inserted by Bom. 39 of 1950, s. 4.

[7] These words were inserted, *ibid.*

(*2*) In respect of the continued subjection of the land to requisition under sub-section (*1*) compensation shall be determined and paid in accordance with the provisions of this Act and of the rules made thereunder :

Provided that all agreements and awards made in relation to the land in respect of the payment of compensation for the period before it was continued to be subject to requisition under sub-section (*1*) shall continue to be in force and shall apply to the payment of compensation for the period of requisition under this Act.

Payment of compensation.

8. (*1*) When any land is requisitioned or is continued to be subject to requisition under this Act, there shall be paid, subject to the provisions of section 7, compensation to persons having interest in such land the amount of which shall be determined by an officer authorised in this behalf by the [1][State] Government who shall hold an inquiry in the manner prescribed. The officer shall determine such amount of compensation as he deems just having regard to all the circumstances of the case ; and in particular he shall be guided by the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894, in so far as they can be made applicable. I of 1894.

(*2*) Where there are several persons interested in the land, the officer shall decide the dispute, if any, as to the apportionment of the amount of compensation or any part thereof or as to the persons to whom the same or any part thereof is payable.

(*3*) An appeal shall lie against the decision of the officer under sub-section (*1*) or (*2*), except in cases where the total amount of compensation in respect of the land does not exceed an amount prescribed in this behalf by the [1][State] Government,—

(*a*) in Greater Bombay, to the High Court, and

(*b*) elsewhere, to the District Court.

Such appeal shall be made within a period of sixty days from the date of the decision.

[2][*Explanation.*—For the purposes of this section, the total amount of compensation shall mean in cases where the amount of compensation is paid in a lump sum, such sum, and in cases where it is paid periodically, such multiple of the amount of compensation as may be prescribed.]

(*4*) No further appeal shall lie against any decision in appeal under sub-section (*3*).

Power of State Government to call for record.

[3][**8-A1.** The State Government may,—

(*a*) in cases in which no appeal lies under sub-section (*3*) of section 8, or

(*b*) in cases in which such appeal lies, but has not been filed within the period specified in the said sub-section (*3*), after the period for filing such appeal has expired,

call for the record of the inquiry or proceedings of the officer, who has given the decision under sub-section (*1*) or (*2*) of the said section 8, for the purpose of satisfying itself as to the legality, propriety or regularity of such inquiry or proceedings, and may pass such order thereon as it deems fit. Any order passed by the State Government under this section shall be final.]

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[1] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] This Explanation was added by Bom. 2 of 1950, s. 3.

[3] Section 8-A1 was inserted by Bom. 5 of 1953, s. 3.

Landlord's duty to execute necessary repairs.

[1][**8A.** Where any premises are requisitioned or continued under requisition under this Act, the State Government may, subject to any agreement entered into by the appropriate Government with the landlord of the premises, whether such premises are requisitioned or continued under requisition either before or after the coming into force of the Bombay Land Requisition (Amendment) Act, 1950, by order in writing direct him to execute such repairs as shall in its opinion be necessary or sufficient to keep the premises in a good and tenantable condition and as may be specified in the order, within the time mentioned therein. If the landlord fails to execute such repairs, the State Government may cause such repairs to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord.]

Bom. II of 1950.

[1] Section 8A was inserted by Bom. 2 of 1950, s. 4.

Vacation of requisitioned land and recovery of dues as arrear of land revenue.

[1][8B. (*1*) Where the State Government has either before or after the coming into force of the Bombay Land Requisition (Amendment) Act, 1950, allotted to any person any land requisitioned or continued under requisition under this Act or where any person continues or is permitted to continue to remain in occupation or possession of such land, the State Government may, notwithstanding anything contained in any law for the time being in force, by order in writing direct the person to whom such land is allotted or the person who continues or is permitted to continue to remain in occupation or possession of such land or any other person for the time being in occupation of such land to vacate the same within such period as may be specified in the order and deliver possession thereof to the officer authorised in this behalf by the State Government.

Bom. II of 1950.

(*2*) If any person to whom any such land is allotted by the State Government fails to pay to the State Government any sum which he is liable to pay under the terms and conditions subject to which such land is allotted to him or if any person who continues or is permitted to continue to remain in occupation or possession of such land fails to pay any amount of compensation which the State Government determines as the amount payable by him for such occupation or possession, such sum or amount due whether before or after the coming into force of the Bombay Land Requisition (Amendment) Act, 1950, shall, without prejudice to any other mode of recovery, be recovered from him or any person for the time being in occupation of the land as an arrear of land revenue.

Bom. II of 1950.

(*3*) The allotment of any land to any person, or the continuance of any person or the permission to any person to continue to remain in occupation or possession of any land, referred to in sub-section (*1*) shall be deemed to be a licence in favour of such person for the use and occupation of the said land.]

Release from requisition.

9. (*1*) The [2][State] Government may, at any time release from requisition any land requisitioned or continue to be subject to requisition under this Act.

(*2*) (*a*) Upon such release the land shall be restored as far as possible in the same condition in which it was on the date on which the [2][State] Government was put in possession thereof, and the [2][State] Government shall pay compensation for deterioration, if any, caused to the land otherwise than by reasonable wear and tear or irresistible force :

Provided that nothing in this sub-section shall apply to any structures, trees or crops standing on the land on the date on which the [2][State] Government took possession thereof and in respect of which compensation has been paid.

(*b*) The officer authorised in this behalf by the [2][State] Government shall determine such amount of compensation as he deems just and his decision subject to an appeal to the [2][State] Government, shall be final. Such appeal shall be made within a period of thirty days from the date of the decision.

(*3*) When any land is to be released from requisition, the [2][State] Government may, after making such inquiry, if any, as it deems fit, specify by order in writing the person to whom possession of the land shall be given.

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[1] Section 8B was inserted by Bom. 2 of 1950, s. 3.
[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*4*) The delivery of possession of the land to the person specified in an order made under sub-section (*3*) shall be a full discharge of the [1][State] Government from all liability in respect of such delivery but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(*5*) Where the person to whom possession of any requisitioned land is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the [1][State] Government shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the land and shall publish the notice in the *Official Gazette*.

(*6*) When a notice referred to in sub-section (*5*) is published in the *Official Gazette*, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the [1][State] Government shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

(*7*) For the purpose of releasing any land from requisition, the [1][State] Government may, by order direct the person to whom the [1][State] Government had given possession of such land and other person, if any, in occupation of such land to deliver possession thereof to the officer authorised in this behalf by the [1][State] Government.

Notice to owner of land or premises requisitioned or to be requisitioned to submit application for compensation.

[2][**9A.** The State Government shall, at the time of requisitioning or thereafter, by notice in writing published or served, as the case may be, in the manner provided in section 13 for the publication or service of the orders therein mentioned, require the owner of the land or landlord of the premises requisitioned, or, to be requisitioned, to submit within the time specified in section 9B, his claim for compensation in respect of such land or premises.

Officer to whom manner in which and time within which application for compensation to be made.

9B. (*1*) Every application for the determination or payment of compensation shall be made to the officer authorised to determine compensation under section 8, in such manner and in such form, and accompanied by such information, as may be prescribed.

(*2*) Such application shall,—

(*a*) in the case of a claim for compensation under sub-section (*1*) of section 8, be made within three months from the date on which the notice under section 9A is published or served, as the case may be;

(*b*) in the case of arrears of compensation, where an order determining compensation directs that the amount of compensation shall be paid at a future date or in instalments or periodically, be made within three months from the date on which the amount, instalment or periodical payment, as the case may be, becomes so payable;

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[1] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] Sections 9A, 9B and 9C were inserted by Bom. 52 of 1955, s. 3

(*c*) in the case of a claim for compensation under clause (*a*) of sub-section (*2*) of section 9, be made within three months from the date on which possession was delivered under the said section.

(*3*) The provisions of sections 4 and 5, and of sub-section (*1*) of section 12, of the Indian Limitation Act, 1908, shall *mutatis mutandis* apply in relation to applications for determination or payment of compensation under this Act, as they apply in relation to applications described in the First Schedule to that Act.

IX of 1908.

If application for determination of compensation not made in time compensation to be determined *ex parte*.

9C. If an application for compensation under clause (*a*) of sub-section (*2*) of section 9B is not made within the time therein mentioned, the officer may proceed to determine *ex parte* the amount of compensation and apportionment thereof, and such determination and apportionment shall, subject to the provisions of sub-section (*3*) of section 8 and of section 8-A1, be binding on the owner or landlord :

Provided that, if the owner or landlord, within thirty days of the date of the decision of the officer, shows to the satisfaction of the officer that the notice was not duly published or served or that he was prevented by sufficient cause from making his claim in time, the officer shall cancel his decision and proceed to determine the compensation and apportionment thereof after taking into consideration any claim made by the owner or landlord.]

Power of inquiry.

10. For the purposes of holding an inquiry under section 8 the authorised officer shall have the same powers as are vested in civil courts in respect of—

(*a*) proof of facts by affidavits,

(*b*) summoning and enforcing the attendance of any person and examining him on oath,

(*c*) compelling the production of documents, and

(*d*) issuing commissions for the examination of witnesses.

Powers to take possession.

11. (*1*) Any officer authorised in this behalf by the [1][State] Government by a general or special order may take possession of any land in respect of which an order has been made under section 5 or 6 [2][or sub-section (*1*) of section 8B] or sub-section (*7*) of section 9 and may take or cause to be taken such steps and use or cause to be used such force as may in the opinion of such officer, be reasonably necessary for taking possession of such land.

(*2*) The [1][State] Government may, after giving 15 clear days' notice to the person from whom possession of the land has been taken under sub-section (*1*) remove or cause to be removed or dispose of by public auction any property remaining on such land.

(*3*) Where property is sold under sub-section (*2*), the sale proceeds shall after deducting the expense of sale, be paid to such person or persons who may appear to the [1][State] Government to be entitled to the same.

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[1] This word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words, brackets, figures and letters were inserted by Bom. 2 1950, s. 6.

Power to obtain information.

12. (*1*) Any officer authorised in this behalf by the [1][State] Government by a general or special order may, with a view to carrying out the purposes of this Act, by order require any person to furnish to him such information in such person's possession relating to any land which is requisitioned or is continued under requisition or is intended to be requisitioned or continued under requisition [2][under this Act].

(*2*) Every person required to furnish such information as is referred to in sub-section (*1*) shall be deemed to be legally bound to do so within the meaning of sections 176 and 177 of the Indian Penal Code. XLV of 1860.

Publication and service of orders.

13. (*1*) Every order made under section 5, 6, 7, [3][8A or 8B [4]* * or] sub-section (*7*) of section 9 or section 12 shall—

(*a*) if it is an order of a general nature or affecting a class of persons, be published in the manner prescribed by rules made in this behalf;

(*b*) if it is an order affecting an individual, corporation, or firm, be served in the manner provided for the service of a summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908; V of 1908.

(*c*) if it is an order affecting an individual person other than a corporation or firm, be served on the person—

(*i*) personally, by delivering or tendering to him the order, or

(*ii*) by post, or

(*iii*) where the person cannot be found, by leaving an authentic copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or worked for gain.

(*2*) Where a question arises whether a person was duly informed of an order made in pursuance of section 5, 6, 7, [3][8A or 8B [4]* * or], sub-section (*7*) of section 9 or section 12 compliance with the requirements of sub-section (*1*) shall be conclusive proof that he was so informed; but failure to comply with the said requirements shall not preclude proof by other means that he was so informed or affect the validity of the order.

Power to enter and inspect land.

14. Without prejudice to any powers otherwise conferred by this Act, any officer or person empowered in this behalf by the [1][State] Government, by general or special order may enter and inspect any land for the purpose of determining whether, and, if so, in what manner, an order under this Act should be made in relation to such land, or with a view to securing compliance with any order made under this Act.

Delegation of functions.

15. The [1][State] Government may, by order notified in the *Official Gazette*, direct that any power conferred or any duty imposed on it by this Act shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer, not being in the opinion of the [1][State] Government below the rank of a Collector, as may be so specified.

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[1] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words were added by Bom. 39 of 1950, s. 5.

[3] The figures, letters and words "8A or 8B or 9A or" were inserted by Bom. 2 of 1950, s. 7.

[4] The word, figure and letter "or 9A" were deleted by Bom. 5 of 1952, s. 5.

Exemption. **16.** The [1][State] Government may by rules exempt any land from the provisions of section 5 or 6 or both on such terms and conditions as may be specified in the said rules.

Protection of action taken under Act. **17.** (*1*) No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or any order made thereunder.

(*2*) Save as otherwise expressly provided under this Act no suit or other legal proceeding shall lie against the [1][State] Government for any damage caused or likely to be caused by anything in good faith done or intended to be done under this Act, or any order made thereunder.

Officers to be deemed public servants. **18.** Every officer authorised or empowered by the [1][State] Government to exercise any power or to perform any duty under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

XLV of 1860

Power to make rules. **19.** (*1*) The [1][State] Government may by notification in the *Official Gazette* make rules to carry into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*i*) the form in which intimation shall be given under sub-section (*1*) of section 6 ;

(*ii*) the manner of holding an inquiry under sub-section (*1*), and the amount of compensation to be prescribed under sub-section (*3*) of section 8 ;

[2][(*ii-a*) the manner and form in which applications for determination of payment of compensation shall be made, and the information required to accompany such applications, under section 9B ;]

(*iii*) levy of court-fees in respect of appeals under sections 8 and 9 ;

(*iv*) exemption of any land from the provisions of section 5 or 6 or both and the terms and conditions on which the land shall be exempted ;

(*v*) any other matter which under this Act is to be or may be prescribed.

Repeal. **20.** (*1*) The Bombay Land Requisition Ordinance, 1947, is hereby repealed, and it is hereby declared that the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904, shall apply to the repeal as if that Ordinance were an enactment.

Bom. Ordinance No. V of 1947.
Bom. I of 1904.

(*2*) Notwithstanding the repeal of the said Ordinance and anything contained in this Act,—

(*i*) any intimation given under sub-section (*1*) of section 5 of that Ordinance within a period of seven days prior to the commencement of this Act shall be deemed to have been given under the corresponding provision of this Act ;

(*ii*) any order made under the said Ordinance requisitioning any land shall be deemed to be made under this Act ;

(*iii*) any land requisitioned or continued to be subject to requisition under the said Ordinance shall be deemed to be requisitioned or continued to be subject to requisition under this Act.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This clause was inserted by Bom. 52 of 1955, s. 4.

Validation of requ sition orders.

[1][21. (*1*) Notwithstanding anything contained in this Act, or a judgment decree or order of a Court, if any order for requisition made under section 5, 6 or 7 on or after the 26th January 1950 and before the commencement of the Bombay Land Requisition (Amendment) Act, 1951, has not specified the purpose for which such requisition was made, but if such order for requisition was in fact made for the purpose of the State or any other public purpose, such order shall not be deemed to be or ever to have been invalid, nor shall such order be called in question in any Court merely on the ground that the order has not specified the purpose for which the requisition was made. Bom. XL of 1951.

(*2*) Nothing contained in this section shall—

(*a*) affect the judgment, decree or order of any competent Court passed before the 31st August 1951 holding any such order invalid on the ground specified in sub-section (*1*), or

(*b*) preclude any Court from requiring the State Government or the Officer who made such order for requisition to produce before it evidence to show that the order for requisition was in fact made for the purpose of the State or any other public purpose.]

Certain order not to be invalid on ground of absence of declaration.

[2][22. (*1*) Notwithstanding anything contained in this Act or a judgment, decree or order of a court, an order made or purporting to have been made under section 6 before the commencement of the Bombay Land Requisition (Amendment) Act, 1955, shall not be deemed to be or to have ever been invalid merely on the ground that such order did not contain a declaration, whether express or implied, that the premises requisitioned were vacant or had become vacant on or after the date of the notification under sub-section (*1*) of section 6.; nor shall such order be called in question in any Court merely on the ground aforesaid. Bom. XVII of 1955.

(*2*) Nothing contained in this section shall affect the judgment, decree or order of any competent court passed before the 13th January 1955, holding any such order invalid or the ground specified in sub section (*1*).]

SCHEDULE.

1. City of Bombay.
2. Bombay Suburban District.
3. Thana District.
4. Ahmedabad District.
5. Surat District.
6. Nasik District.
7. Poona District.
8. Sholapur District.
9. Ahmednagar District.
10. Belgaum District.
11. Dharwar District.

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[1] This section was inserted by Bom. 40 of 1951, s. 2.
[2] This section was inserted by Bom. 17 of 1955, s. 2.

THE BOMBAY CITY CIVIL COURT ACT, 1948.

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BOMBAY ACT No. XL OF 1948.[1]

[THE BOMBAY CITY CIVIL COURT ACT, 1948.]

[*10th May 1948*]

Amended by Bom. 26 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 9 of 1951.
" " " 32 of 1954.

An Act to establish an additional Civil Court for Greater Bombay.

WHEREAS it is expedient to establish an additional Civil Court for the Greater Bombay ; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay City Civil Court Act, 1948.

(*2*) It shall come into force on such date as the [2][State] Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " City Court " means the Court established under section 3 ;

(*2*) " High Court " means the High Court of Judicature at Bombay ;

(*3*) " institution fee " means the court fee payable in respect of the plaint or application by which a suit or proceeding is instituted ;

(*4*) " Small Cause Court " means the Court of Small Causes of Bombay.

(*5*) " special law " means a law applicable to a particular subject.

Constitution of City Court.

3. The [2][State] Government may, by notification in the *Official Gazette*, establish for the Greater Bombay a court, to be called the Bombay City Civil Court. Notwithstanding anything contained in any law, such court shall have jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding ten thousand rupees in value, and arising within the Greater Bombay, except suits or proceedings which are cognizable—

(*a*) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial jurisdiction, or

(*b*) by the High Court for the relief of insolvent debtors, or

(*c*) by the High Court under any special law other than the Letters Patent, or

(*d*) by the Small Cause Court :

Provided that the [2][State] Government may, from time to time, after consultation with the High Court, by a like notification extend the jurisdiction of the City Court to any suits or proceedings [3][which are cognizable by the High Court as a court having testamentary or intestate jurisdiction or for the relief of insolvent debtors.]

Power of [2][State] Government to enhance jurisdiction of City Court.

4. Subject to the exceptions specified in section 3, the [2][State] Government may, by notification in the *Official Gazette*, invest the City Court with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature arising within the Greater Bombay and of such value not exceeding twenty-five thousand rupees as may be specified in the notification.

Power of High Court to transfer matrimonial cases to City Court.

[4][**4A.** (*1*) Notwithstanding anything contained in any law for the time being in force, the High Court may at any stage transfer to the City Court any suit or proceeding which is cognizable by it as a Court having matrimonial jurisdiction and instituted in such Court.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 7.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This portion was substituted for the original by Bom. 26 of 1950, s. 2.

[4] This section was inserted, *ibid*, s. 3.

(2) Any suit or proceeding so transferred shall be heard and disposed of by the City Court and the City Court shall have all the powers and jurisdiction in respect thereof as if it had been originally instituted in that Court.

(3) In any such suit or proceeding institution fees shall be paid, credit being given to any court fee levied in the High Court, and costs incurred in the High Court till the date of transfer shall be assessed by the City Court in such manner as the [1][State] Government may, after consultation with the High Court, determine by rules.]

Subordination to and superintendence by High Court.

5. The City Court shall be deemed to be a court subordinate to and subject to the superintendence of the High Court within the meaning of the Letters Patent of the High Court and of the Code of Civil Procedure, 1908. V of 1908.

Appointment of Judges.

6. The [2][State] Government may, by notification in the *Official Gazette*, appoint as many persons as it thinks fit to be Judges of the City Court.

Powers of Judges when City Court consists of more than one Judge.

7. When the City Court consists of more than one Judge—

(*a*) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force ;

(*b*) the [2][State] Government may appoint any one of the Judges to be the principal Judge ;

(*c*) the principal Judge may from time to time make such arrangements as he may think fit for the distribution of the business of the court among the various Judges thereof.

Registrar.

8. (*1*) The [2][State] Government may appoint an officer to be called the Registrar of the City Court. He shall be the chief ministerial officer of the court ; and shall exercise such powers and discharge such duties of a ministerial nature as the Judge of the City Court, or when the court consists of more than one Judge, the principal Judge may, from time to time, by rules, direct.

(*2*) The [2][State] Government may, with the previous approval of the High Court, invest the Registrar with any powers of the Judge of the City Court other than powers of trying suits and proceedings.

Questions arising in suits, etc., under Act to be dealt with according to law administered by High Court.

9. Save as otherwise provided in this Act all questions which arise in suits or other proceedings under this Act in the City Court shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

Fees for process.

10. (*1*) The High Court shall, from time to time, with the sanction of the [2][State] Government prescribe and regulate the fees to be taken for any process issued by the City Court or by any officer of such court.

(*2*) Table of the fees so prescribed shall be published in the *Official Gazette*.

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[1] The word "State" was substituted for the word "Provincial" by Bom. 9 of 1951, s. 3, Second Schedule.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Repayment of institution fee under certain circumstances.

11. (*1*) When any suit in the City Court is settled by agreement of the parties before issues have been settled or any evidence recorded, half the amount of the institution fee paid by the plaintiff shall be repaid to him by the court.

(*2*) The [1][State] Government may, from time to time, by order, provide for repayment of any part of the institution fee to plaintiffs in suits disposed of under such circumstances as may be specified in the order.

High Court jurisdiction barred except in certain cases.

12. Notwithstanding anything contained in any law, the High Court shall not have jurisdiction to try suits and proceedings cognizable by the City Court :

Provided that the High Court may, for any special reason, and at any stage remove for trial by itself any suit or proceeding from the the City Court.

Costs to be disallowed when plaintiff sues in High Court instead of in City Court.

13. If in any suit instituted in the High Court the Judge who tries it is of the opinion that it ought to have been instituted in the City Court and in such suit—

(*a*) if the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client ; or

(*b*) if the plaintiff obtains a decree for any matter of an amount or value less than the maximum amount of the pecuniary jurisdiction of the City Court, no costs shall be allowed to the plaintiff.

Allowance for fees paid in City Court in cases removed to High Court.

14. When any suit or proceeding is removed for trial to the High Court from the City Court under section 12—

(*a*) it shall be heard and disposed of by the High Court in the exercise of its original civil jurisdiction and the said Court shall have all the powers and jurisdiction in respect thereof as if it had been originally instituted in such Court ;

(*b*) court fee on the scale for the time being in force in the High Court as a court of original civil jurisdiction shall be payable in that court in respect of the suit or proceeding therein :

Provided that in the levy of any such fee which, according to the practice of the court, is credited to the [1][State] Government, credit shall be given for the institution fee already paid in the City Court.

Appeals and limitation.

15. (*1*) An appeal shall lie to the High Court from—

(*a*) every decree passed by the Judge of the City Court, and

(*b*) such orders passed by the said Judge as are specified in and to the extent provided for by section 104 of the Code of Civil Procedure, 1908. V of 1908.

(*2*) The period of limitation for an appeal from a decree or order of the City Court shall be thirty days from the day of such decree or order :

[2][Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period.

Seal of City Court.

16. The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the [1][State] Government.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This proviso was inserted by Bom. 32 of 1954, s. 3.

Holidays and vacation.

17. (*1*) The Judge of the City Court, or when the Court consists of more than one Judge, the principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the court, and shall submit the same for the approval of the High Court.

(*2*) Such list, when it has received such approval, shall be published in the *Official Gazette*, and the said holidays and vacations shall be observed accordingly.

Transfer of suits pending in High Court.

18. (*1*) All suits and proceedings cognizable by the City Court and pending in the High Court, in which issues have not been settled or evidence has not been recorded on or before the date of the coming into force of this Act, shall be transferred to the City Court and shall be heard and disposed of by the City Court and the City Court shall have all the powers and jurisdiction thereof as if they had been originally instituted in that Court.

(*2*) In any suit or proceeding so transferred institution fee shall be paid, credit being given to any court fee levied in the High Court, and costs incurred in the High Court till the date of the transfer shall be assessed by the City Court in such manner as the [1][State] Government may, after consultation with the High Court, determine by rules.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

BOMBAY HIGH COURT LETTERS PATENTS (AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Amendment of Letters Patent of 8th December 1823.
3. Amendment of Letters Patent of 28th December 1865.

BOMBAY ACT No. XLI OF 1948.[1]

[THE BOMBAY HIGH COURT LETTERS PATENTS (AMENDMENT) ACT, 1948.]

[*4th May 1948.*]

An Act to amend the Letters Patent establishing the Supreme Court of Judicature at Bombay, bearing date the eighth day of December, One thousand Eight hundred and Twenty-three and to amend the Letters Patent of the High Court of Judicature for the Presidency of Bombay, bearing date the twenty-eighth day of December, One thousand Eight hundred and Sixty-five.

WHEREAS it is expedient to amend the Letters Patent establishing the Supreme Court of Judicature at Bombay, bearing date the eighth day of December, One thousand Eight hundred and Twenty-three and to amend the Letters Patent of the High Court of Judicature for the Presidency of Bombay, bearing date the twenty-eighth day of December, One thousand Eight hundred and Sixty-five, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay High Court Letters Patents (Amendment) Act, 1948.

(*2*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Amendment of Letters Patent of 8th December 1823.

2. In the Letters Patent establishing the Supreme Court of Judicature at Bombay, bearing date the eighth day of December, One thousand Eight hundred and Twenty-three—

(*1*) in paragraph 21—

(*a*) after the words "Judicature at Bombay" where they occur for the first time, the words " and of the Bombay City Civil Court " shall be inserted;

(*b*) after the words " Judicature at Bombay " where they occur for the second time, the words " or to the said Bombay City Civil Court, as the case may be, " shall be inserted ;

(*c*) after the word " respectively " the words " or by the Bombay City Civil Court or by any Judge of the said Court " shall be inserted ;

(*2*) in paragraph 22—

(*a*) after the words " Judicature at Bombay " where they occur for the first time, the words " or the Bombay City Civil Court " shall be inserted

(*b*) after the words " Judicature at Bombay " where they occur for the second time, the words " or the said Bombay City Civil Court, as the case may be, " shall be inserted ;

(*c*) for the word " Court " where it occurs at the end, the word " Courts " shall be substituted ;

(*3*) in paragraph 23—

(*a*) after the words " said Court " where they occur for the first time, the words " or of the said Bombay City Civil Court " shall be inserted ;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 220.

(*b*) for the words " said Court " where they occur for the second time, the words " said Supreme Court of Judicature at Bombay " shall be substituted ;

(*4*) to paragraph 43, the following shall be added, namely :—

" The foregoing provisions as respects the Sheriff and his duties shall, so far as may be, apply to the Court of Session for Greater Bombay."

Amendment of Letters Patent of 28th December 1865.

3. (*1*) In the Letters Patent of the High Court of Judicature for the Presidency of Bombay, bearing date the twenty-eighth day of December, One thousand Eight hundred and Sixty-five—

(*1*) in clause 12, for the words " in which the debt, or damage, or value of property sued for does not exceed one hundred rupees " the words " or the Bombay City Civil Court " shall be substituted ;

(*2*) in clause 22—

(*a*) the words " within the local limits of its ordinary original civil jurisdiction, and also " shall be deleted ;

(*b*) for the words " such limits " the words " the local limits of its ordinary original civil jurisdiction " shall be substituted.

(*2*) For the avoidance of doubt, it is hereby declared that the amendments made by clause (2) of sub-section (*1*) shall not be deemed to affect any of the powers of the High Court under the provisions, for the time being in force, of the Code of Criminal Procedure, 1898. V of 1898.

BOMBAY ACT No. XLII OF 1948.[1]

[THE COURT-FEES (BOMBAY AMENDMENT) ACT, 1948.]

[*11th May 1948.*]

An Act to amend the Court-fees Act, 1870, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Court-fees Act, 1870, in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows:—

VII of 1870.

Short title and commencement.

1. (*1*) This Act may be called the Court-fees (Bombay Amendment) Act, 1948.

(*2*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 2 of Act VII of 1870.

2. In the Court-fees Act, 1870, in section 22, after the words "every District Judge" the words "the Judge of the Bombay City Civil Court or, if the said Court consists of more than one Judge, the principal Judge thereof," shall be inserted.

VII of 1870.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 133

THE PRESIDENCY SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Amendment of section 21 of Act XV of 1882.
3. Substitution of new section for section 22 of Act XV of 1882.
4. Amendment of section 31 of Act XV of 1882.
5. Deletion of sections 39 and 40 of Act XV of 1882.
6. Amendment of section 47 of Act XV of 1882.
7. Amendment of section 49 of Act XV of 1882.
8. Amendment of section 61 of Act XV of 1882.
9. Amendment of section 63 of Act XV of 1882.

BOMBAY ACT No. XLIV OF 1948.[1]

[THE PRESIDENCY SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1948.]

[*18th May 1948.*]

An Act to amend the Presidency Small Cause Courts Act, 1882, in its application to the Province of Bombay.

XV of 1882. WHEREAS it is expedient to amend the Presidency Small Cause Courts Act, 1882, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Presidency Small Cause Courts (Bombay Amendment) Act, 1948. Short title and commencement.

(*2*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

XV of 1882. 2. In section 21 of the Presidency Small Cause Courts Act, 1882 (hereinafter called "the said Act"),— Amendment of section 21 of Act XV of 1882.

(*a*) the words "and all suits whereof the amount or value of the subject-matter exceeds one thousand rupees" shall be deleted; and

(*b*) for the words "High Court" the words "Bombay City Civil Court" shall be substituted.

3. For section 22 of the said Act, the following shall be substituted, namely:— Substitution of new section for section 22 of Act XV of 1882.

"22. If in any suit instituted in the High Court or in the Bombay City Civil Court, other than a suit to which section 21 applies, the Judge who tries it is of the opinion that it ought to have been instituted in the Small Cause Court and if in such suit— Costs when plaintiff sues in High Court or in Bombay City Civil Court in other cases cognisable by Small Cause Court.

(*a*) where it is instituted in the High Court, the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client; or

(*b*) where it is instituted in the Bombay City Civil Court, the plaintiff does not obtain a decree, the defendant shall be entitled to his costs and may also be awarded such additional amount not exceeding one thousand rupees by way of compensation as the Judge may award; or

(*c*) where it is instituted in the High Court or in the Bombay [illegible]urt, the plaintiff obtains a decree for any matter of an amo[illegible] less than two thousand rupees, no costs shall be allowed to [illegible]

[illegible]rnment Gazette 1948, Part V, page 197

[1] For Statement of Objects and Reasons, *see Bom.*

Amendment of section 31 of Act XV of 1882.

4. In section 31 of the said Act,—

(*a*) after the words "Madras City Civil Court or" the words, "the Bombay City Civil Court or" shall be inserted; and

(*b*) the words "or Bombay" shall be deleted.

Deletion of sections 39 and 40 of Act XV of 1882.

5. Sections 39 and 40 of the said Act shall be deleted.

Amendment of section 47 of Act XV of 1882.

6. In section 47 of the said Act, after the words "High Court" the words "or the Bombay City Civil Court" shall be inserted.

Amendment of section 49 of Act XV of 1882.

7. In section 49 of the said Act, for the words "High Court" the words "Bombay City Civil Court or the High Court, as the case may be," shall be substituted.

Amendment of section 61 of Act XV of 1882.

8. In section 61 of the said Act, after the words "High Court" at both the places where they occur the words "or the Bombay City Civil Court" shall be inserted.

Amendment of section 63 of Act XV of 1882.

9. In the marginal note to section 63 and in the said section 63 of the said Act, for the words "one thousand" the words "two thousand" shall be substituted.

BOMBAY ACT No. XLV OF 1948.[1]

[THE LEGAL PRACTITIONERS (BOMBAY AMENDMENT) ACT, 1948.]

[*18th May 1948*]

An Act to amend the Legal Practitioners Act, 1879, in its application to the Province of Bombay.

XVIII of 1879. WHEREAS it is expedient to amend the Legal Practitioners Act, 1879, in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Legal Practitioners (Bombay Amendment) Act, 1948.

(*2*) It shall come into force on such date as the [2][State] Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 36 of Act XVIII of 1879.

XVIII of 1879. **2.** In the Legal Practitioners Act, 1879, in section 36, in sub-section (*1*), for the words, ",District Judge, " the words " and District Judge, the Judge of the Bombay City Civil Court or, if the said Court consists of more than one Judge, the principal Judge thereof, every " shall be substituted.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 132.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

THE CODE OF CRIMINAL PROCEDURE (BOMBAY SECOND AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Insertion of new section 476C in Act V of 1898.
3. Insertion of new Chapter XLIIA in Part IX of Act V of 1898.

BOMBAY ACT No. XLVI OF 1948.[1]

[THE CODE OF CRIMINAL PROCEDURE (BOMBAY SECOND AMENDMENT) ACT, 1948.]

[*22nd May 1948.*]

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

V of 1898. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Code of Criminal Procedure (Bombay Second Amendment) Act, 1948.

V of 1898. Insertion of new section 476C in Act V of 1898. 2. In the Code of Criminal Procedure, 1898 (hereinafter called the said Code), in its application to the Province of Bombay, after section 476B the following new section shall be inserted, namely :—

Power to order costs. "476C. A criminal court dealing with an application made to it for filing a complaint under section 476 or 476A, and a court dealing with an appeal under section 476B and the High Court dealing with an application in revision shall have power to make such order as to costs as may be just :

Provided that no such order shall be made against the Government or any public servant acting on behalf of the Government."

Insertion of new Chapter XLIIA in Part IX of Act V of 1898. 3. In Part IX of the said Code, after Chapter XLII the following new Chapter shall be inserted, namely :—

"CHAPTER XLIIA.

OF COSTS TO BE PAID BY THE COMPLAINANT OR INFORMANT.

Power to order costs against complainant or informant. 516AA. (*1*) If in any case instituted upon complaint or upon information given to a police officer or to a magistrate, the accused is ordered to be discharged or acquitted by any court (including a court of appeal or revision) or if in any such case the proceedings are quashed by the High Court by an order made under section 561A and if such court is of the opinion that the complaint was made or the information was given without any reasonable and probable cause, it may, at the time of making such order, if the complainant or informant is present, call upon him forthwith to show cause why he should not be ordered to pay costs to such person ; or if the complainant or informant is not present, direct the issue of a notice to him to appear and show cause as aforesaid.

(*2*) The court shall record and consider any cause which such complainant or informant may show and may make an order directing him to pay the whole or any part of such costs. Such costs may include any expenses incurred in respect of witnesses and of pleader's fees which the court considers reasonable.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 93.

(3) The court may, by the order directing payment of costs under sub-section (2) further order that in default of payment the person ordered to pay such costs shall suffer simple imprisonment for a period not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply. XLV of 1860.

(5) No person who has been directed to pay costs by an order made under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him.

(6) Where any such order is made by a magistrate and the amount directed to be paid exceeds fifty rupees, the complainant or informant may, within sixty days from the date of the order, appeal against it to the court of session.

(7) In cases where the order is appealable under sub-section (6), the costs shall not be paid before the period allowed for the presentation of the appeal has elapsed or, if an appeal is presented, before the appeal has been decided and in other cases the costs shall not be paid before the expiration of one month from the date of the order."

THE BOMBAY SECONDARY SCHOOL CERTIFICATE EXAMINATION ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Definitions.
3. Constitution of Board.
4. Appointment of Chairman.
5. Disqualifications of members.
6. Disqualifications of Co-opted member.
7. Vacancy owing to disqualification.
8. Vacancy owing to absence.
9. Vacancy to be published.
10. Removal from membership.
11. Incorporation of Board.
12. Term of office of members.
13. Resignation of member of Board.
14. Power of Board to co-opt members for special purposes.
15. Powers and duties of Board.
16. Meetings of Board.
17. Powers and duties of Chairman.
18. Appointment, powers and duties of Secretary.
19. Appointment of other officers and servants.
20. Board to pay costs on account of pay, pension, etc., of Chairman, Secretary and other officers and servants.
21. Examiners Committee.
22. Appointment of Committees.
23. Termination of Examiner's appointment for misconduct or negligence.
24. Casual vacancies.
25. Fund.
26. Power of Board to make regulations.
27. Sanction of regulations by State Government.
28. Making of first regulations.
29. First appointment of University representatives.
30. Proceedings not invalidated by reason of vacancies.
31. Powers of Board to make bye-laws.
32. Information, returns etc., to be furnished by Board.
33. Annual accounts and financial estimates.
33A. Interpretation in case of doubt.
34. Insertion of Chapter VIII-A in, and amendment of sections 33 and 37 of Bom. IV of 1928—*(not printed.)*
35. Amendment of section 41 of Bom. XX of 1948—*(not printed.)*

BOMBAY ACT No. XLIX OF 1948.[1]

[THE BOMBAY SECONDARY SCHOOL CERTIFICATE EXAMINATION ACT, 1948.]

[*7th October 1948*]

Amended by Bom. 14 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 7 of 1951.
" " " 39 of 1951.
" " " 56 of 1953.
" " " 15 of 1954.

An Act for the establishment of a Secondary School Certificate Examination Board in the Province of Bombay.

WHEREAS it is expedient to establish a Board for the purpose of holding and conducting an examination at the end of the high school education stage and for prescribing courses of studies for such examination with a view to equipping pupils for employment, for education in the University and for other cultural purposes; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Secondary School Certificate Examination Act, 1948.

(*2*) This section, sections 2 to 33 and section 35 shall come into force at once. The [2][State] Government may by notification direct that section 34 shall come into force on such date as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Board" means the Secondary School Certificate Examination Board constituted under section 3;

(*b*) "examination" means the Secondary School Certificate Examination;

(*c*) "examiner" shall include a paper-setter [3][and moderator];

(*d*) "Headmaster" or "Headmistress" means the head of the teaching staff of a recognised high school, by whatever style designated;

(*e*) "notification" means a notification published in the *Bombay Government Gazette*;

(*f*) "prescribed" means prescribed by regulations made by the Board under this Act;

(*g*) "[4][State]" means the [4][State] of Bombay;

(*h*) "recognized high school" means a high school recognized by the [5][Director of Education], Bombay [4][State], or an officer authorized by him in this behalf or a high school registered by any University established by law in the [4][State];

(*i*) "text book" means any book prescribed or recommended for the examination [6][by the Board] and includes a guide-book containing annotations on such text book.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 206.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] These words were inserted by Bom. 56 of 1953, s. 2(*i*).
[4] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[5] These words were substituted for the words "Director of Public Instruction" by Bom. 56 of 1953, s. 2(*ii*).
[6] These words were inserted, *ibid*, s. 2(*iii*).

Constitution of Board.

3. (*1*) There shall be established as soon as may be after this section comes into force a Board called the Secondary School Certificate Examination Board. The Board shall consist of a Chairman appointed by the [1][State] Government and members as specified in sub-section (*2*).

(*2*) The members of the Board shall be as follows :—

(A) Six *ex-officio* members :—

[2][(*a*) the Director of Education, Bombay State, or the Joint or a Deputy Director of Education designated by the State Government;

(*b*) the Director of Technical Education or any other officer of the Department of Technical Education designated by the State Government;

(*c*) the Director of Agriculture or any other officer of the Agriculture Department designated by the State Government;

(*d*) the Inspector of Commercial Schools, Bombay, or any other officer designated by the State Government to represent the Commercial Schools;]

(*e*) one Educational Inspector designated by the [1][State] Government;

(*f*) one [3]* Inspectress of Girls' Schools designated by the [1][State] Government.

[4][(B) Twelve members elected by—

(*a*) Academic Councils of the Universities established by law in the State, and

(*b*) where there are no Academic Councils of such Universities, by such authority of the University as may be approved by the State Government,

from amongst the members of such Councils or authority, as the case may be, in such number as may be determined by the State Government by rules made in this behalf];

(C) Nominated by the [1][State] Government :—

(*a*) [5][fifteen] members, out of whom not less than [6][seven] shall be secondary teachers, from amongst Headmasters, Headmistresses and secondary teachers of recognized high schools;

(*b*) one Principal of a secondary training college in the [7][State];

(*c*) four persons (not being Headmasters, Headmistresses or secondary teachers) who have had experience of matters connected with higher or secondary education :

Provided that a member shall cease to hold office as such member—

(*i*) if he is elected under paragraph (B) and ceases to be the member of the Academic Council [8][or the authority, as the case may be];

(*ii*) if he is nominated under clause (*a*) of paragraph (C) and ceases to be either a Headmaster or a Headmistress or a secondary teacher; and

(*iii*) if he is nominated under clause (*b*) of paragraph (C) and ceases to be a Principal.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These clauses were substituted for the original by Bom. 39 of 1951, s. 3, Second Schedule.
[3] The word "Educational" was deleted by Bom. 56 of 1953, s. 3.
[4] This paragraph was substituted for the original by Bom. 14 of 1950, s. 2(*1*).
[5] The word "fifteen" was substituted for the word "twelve" by Bom. 15 of 1954, s. 2.
[6] The word "seven" was substituted for the word "five" *ibid.*
[7] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[8] These words were inserted by Bom. 14 of 1950, s. 2(2).

(*3*) The names of persons who have been elected or nominated to be members of the Board under sub-section (*2*) shall be published by the Board in the *Official Gazette*.

Appointment of Chairman.

4. (*1*) The [1][State] Government shall appoint a Chairman of the Board. The Chairman so appointed shall hold office [2][for such period not exceeding four years from the date of his appointment as the State Government may in each case determine.]

[3][(*1A*) The State Government may from time to time extend the period of his appointment, provided that the total period of extension shall not exceed four years.]

(*2*) The pay, allowances and other conditions of service of the Chairman shall be as determined by the [1][State] Government.

[4][(*3*) Where any temporary vacancy of the Chairman occurs by reason of leave, illness or other cause, the State Government may appoint another person to be the Chairman on such pay, allowances and other conditions of service as shall be determined by the State Government.]

Disqualifications of members.

5. A person shall be disqualified for being appointed as, and for being a Chairman or for being elected, or nominated as, and for being a member of the Board or for being appointed as, and for being a member of any Committee under this Act—

(*i*) if he directly or indirectly, by himself or his partner,—

(*a*) has or had any share or interest in any text-book published, or

(*b*) has any share or interest in any work done by order of, or in any contract entered into on behalf of the Board :

Provided that a person who had any share or interest in any text-book referred to in sub-clause (*a*) shall not be deemed to have incurred the disqualification under the said sub-clause if five years have elapsed from the date of the publication of such text-book ;

(*ii*) if he is a person against whom an order has been made under sub-section (*1*) of section 23 :

Provided that, where the order has been made on the ground that such person appears guilty of negligence, the disqualification shall cease to have effect after the expiry of the period specified, in the order.

Explanation.—For the purposes of this section—

(*a*) the publication of a text-book shall include its republication ;

(*b*) a person shall be deemed to have incurred disqualification by reason of his having any share or interest in the business of the publisher of such text-book.

Disqualifications of co-opted member.

6. A person shall be disqualified for being co-opted as a member of the Board under sub-section (*1*) of section 14 or a member of a Committee under sub-section (*2*) of section 22 or for continuing to act after co-option, if he is or becomes subject to any of the disqualifications mentioned in section 5.

Vacancy owing to disqualification.

7. If the Chairman or any member of the Board or Committee during the term for which he has been appointed, elected, nominated or co-opted, as the case may be, becomes subject to any of the disqualifications under section 5 or section 6, as the case may be, his office shall thereupon become vacant.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words " for a period of four years from the date of his appointment " by Bom. 15 of 1954, s. 3.

[3] This sub-section was substituted for the proviso by Bom. 56 of 1953, s. 4.

[4] This sub-section was inserted by Bom. 14 of 1950, s. 3.

Vacancy owing to absence.

8. If any member of the Board during the term for which he has been elected, nominated or co-opted, absents himself from three consecutive meetings of the Board without the permission of the Board, his office shall also thereupon become vacant.

Vacancy to be published.

9. Any vacancy occurring under section 7 or 8 shall be published by the Board in the *Official Gazette*.

Removal from membership.

10. (*1*) The [1][State] Government may, on the recommendation of the Board, remove any member of the Board or Committee, if he has been convicted by a court of law of any offence which, in the opinion of the Board, is a serious offence involving moral turpitude or if he has been guilty of scandalous conduct.

(*2*) No recommendation for the removal of any member shall be made by the Board unless the person concerned is given an opportunity to be heard in his defence.

(*3*) The name of any member who has been removed from the Board or Committee under sub-section (*1*) shall be published in the *Official Gazette*.

Incorporation of Board.

11. The Board shall be a body corporate by the name of the Secondary School Certificate Examination Board and shall have perpetual succession and a common seal and may sue and be sued by the corporate name and shall be competent to acquire and hold property both moveable and immovable and to lease, sell or otherwise transfer any moveable or immovable property which may have been vested in or been acquired by it and to contract and to do all things necessary for the purposes of this Act.

Term of office of members.

12. The members of the Board other than *ex-officio* members shall hold office for a term of three years from the date of the publication of their names under sub-section (*3*) of section 3 and on the expiration of such term, shall be eligible for being re-nominated or re-elected in accordance with the provisions of sub-section (*2*) of section 3 :

Provided that the term of office of the outgoing members shall be deemed to extend to and expire with the date on which the names of their successors elected or nominated, as the case may be, are published under sub-section (*3*) of section 3.

Resignation of member of Board.

13. A member of the Board, other than an *ex-officio* member, may resign his seat at any time by giving notice thereof in writing to the Chairman ; and such member shall be deemed to have vacated his seat as soon as the Chairman has received his resignation.

Power of Board to co-opt member for special purposes.

14. (*1*) The Board, may co-opt persons not exceeding three to be extraordinary members for any special purpose.

(*2*) A person so co-opted shall not be deemed to be a member of the Board and shall have no right to vote at any meeting thereof, but he may take part in the discussions of the Board relating to the purpose for which he was co-opted.

Powers and duties of Board.

15. Subject to the provisions of this Act, the powers and duties of the Board shall be as follows, namely :—

(*a*) to make regulations for all or any of the matters specified in section 26 ;

(*b*) to make regulations for the purpose of prescribing and recommending any book as a text-book :

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Provided that a book in which the Chairman or a member of the Board has, directly or indirectly, by himself or his partners, any share or interest shall not be prescribed or recommended as a text-book;

(*c*) to make regulations for imposing penalties for acts of misconduct committed by students appearing for the examination;

(*d*) to appoint examiners and supervisors and to fix their remuneration and to arrange for the conduct of, and for publishing the results of the examination;

(*e*) to fix, demand and receive such fees and other charges as may be prescribed;

(*f*) to award certificates to students passing the examination;

[1][(*fa*) to receive bequests, donations, endowments, trusts and other transfers of any property or interest therein or right thereto;

(*fb*) to hold any property, interest or right referred to in clause (*fa*), and to manage or deal with the same;

(*fc*) to award stipends, scholarships, medals, prizes and other rewards;]

(*g*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by or under this Act; and

(*h*) to do all such acts and things as may be necessary to carry out the purposes of this Act.

Meetings of Board.

16. [2][The Board shall meet not less than two times a year, but six months shall not intervene between two successive meetings.] The Chairman may at any time, and shall, upon the written request of not less than one-third of the members of the Board other than the *ex-officio* members and for a date not more than twenty-one days after the presentation of such request, call a special meeting of the Board.

Powers and duties of Chairman.

17. (*1*) It shall be the duty of the Chairman to ensure that this Act, the regulations and bye-laws made thereunder are faithfully observed and he shall have all powers necessary for this purpose.

(*2*) In any emergency which, in the opinion of the Chairman, requires that immediate action should be taken, the Chairman shall take such action as he deems necessary and shall thereafter report his action to the Board at its next meeting.

(*3*) The Chairman shall exercise such other powers and perform such other duties as may be prescribed.

Appointment, powers and duties of Secretary.

18. (*1*) The Board shall have a Secretary who shall be appointed by the [3][State] Government.

(*2*) The Secretary shall, subject to the control of the Chairman of the Board, be the executive officer of the Board.

(*3*) He shall exercise such powers and perform such duties as may be prescribed.

(*4*) He shall be entitled to be present at the meetings of the Board but he shall not be entitled to vote thereat.

Appointment of other officers and servants.

19. (*1*) The [3][State] Government may appoint such other officers and servants as may be required to enable the Board to discharge its functions under this Act:

[4][Provided that the State Government may by order delegate to the Chairman or to the Secretary the power of appointing such classes of servants as may be specified in the order.]

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[1] These clauses were inserted by Bom. 7 of 1951, s. 2.

[2] These words were substituted for the words "the Board shall meet not less than once every three months" by Bom. 56 of 1953, s. 35.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] This proviso was added by Bom. 56 of 1953, s. 6.

(*2*) The Chairman, Secretary and the other officers and servants shall be the servants of the [1][State] Government and they shall draw their pay and allowances from the [1][State] revenues.

Board to pay costs on account of pay, pension, etc., of Chairman, Secretary and other officers and servants.

20. The Board shall pay every year out of its Fund to the [1][State] Government such cost as the [1][State] Government may determine on account of the pay, pension, leave and other allowances of the Chairman, Secretary and other officers and servants appointed under this Act.

Examiners Committee.

21. (*1*) There shall be a Committee called the Examiners Committee for the purpose of drawing up panels of names of examiners.

(*2*) The Examiners Committee shall consist of—

(*i*) Chairman of the Board—*ex-officio* Chairman;

(*ii*) Six members appointed by the Board in the prescribed manner as specified below :—

(*a*) one from amongst the *ex-officio* members of the Board;

(*b*) two from amongst the elected members of the Board; and

(*c*) three from amongst the nominated members of the Board.

(*3*) The Examiners Committee shall draw up panels of the names of examiners. Such panels shall consist of such number as may be prescribed. The panels so drawn up shall be submitted by the Examiners Committee to the Board. The Board shall make the appointments of the examiners from the panels so submitted.

(*4*) If any examiner is unable to act for any cause and a fresh appointment cannot be made in time by the Board, the Chairman shall out of the panels submitted to the Board appoint another examiner to fill the vacancy and shall report such appointment to the Board.

(*5*) The members of the Examiners Committee, other than the Chairman, shall hold office for a term of one year from the date of their appointment.

Appointment of Committees.

22. (*1*) The Board may also appoint such other Committees as it thinks necessary for the efficient discharge of its functions under this Act or the regulations made under this Act.

(*2*) Such Committees may consist of members of the Board and such other persons as the Board may in each case co-opt for any special purpose.

(*3*) The duties and functions of such Committees shall be as may be determined by the Board.

Termination of examiner's appointment for misconduct or negligence.

23. (*1*) If at any time it appears to the Board that a person appointed as an examiner under this Act has been guilty of any misconduct or negligence which renders his appointment as an examiner inexpedient the Board may make an order terminating his appointment and directing that such person shall not be eligible for appointment as an examiner at any time or for any specified period. Before making such order the Board shall observe such procedure as may be prescribed.

(*2*) The name of the person against whom an order has been made under sub-section (*1*) shall not be included in the panels of names submitted under section 21 for such period as may be specified in such order.

[1]This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*3*) Any person aggrieved by an order made under sub-section (*1*) may appeal to the [1][State] Government within sixty days, from the date of the order. On such appeal being filed, the [1][State] Government may, after making such inquiry, as it thinks fit, confirm, modify or reverse the order. The order of the [1][State] Government shall be final.

Casual vacancies.

24. All casual vacancies among the members of the Board and the Examiners Committee (other than *ex-officio* members) shall be filled up as soon as it conveniently may be, by election, nomination or appointment, as the case may be; and the person elected, nominated or appointed to a casual vacancy shall hold office so long only as the member in whose place he is elected, nominated or appointed would have held it if the vacancy had not occurred.

Fund.

25. (*1*) The Board shall have its own Fund and the following moneys shall be placed to the credit thereof :—

(*a*) fees and charges levied by the Board;

(*b*) contribution, if any, paid by the [1][State] Government; and

(*c*) any money received by or on behalf of the Board.

II of 1934. II of 1882.

(*2*) The Fund shall be kept in any scheduled bank as defined in the Reserve Bank of India Act, 1934, or invested in securities authorized by the Indian Trusts Act, 1882, at the discretion of the Board.

Power of Board to make regulations.

26. (*1*) The Board may, from time to time, make regulations for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(*a*) subjects and curricula for the examination;

(*b*) marks required for passing in any subject and the examination as a whole and for exemption, credit and distinction in any subject;

(*c*) admission of candidates to the examination and conditions governing such admission;

(*d*) appointment of examiners and their remuneration;

(*e*) qualifications and disqualifications of examiners;

(*f*) arrangements for the conduct of, and for publishing the results of, the examination;

(*g*) fixing of fees and charges in respect of the examination;

(*h*) awarding of certificates to the successful students;

(*i*) the procedure to be followed at the meetings of the Examiners Committee, the number of members required to form a quorum at such meetings and the travelling and other allowances to be drawn by the members of such committee;

(*j*) the procedure to be observed before making an order under section 23;

(*k*) providing for all matters which by this Act are to be or may be provided for by regulations.

Sanction of regulations by [1][State] Government.

27. No regulation or alteration or revocation of a regulation made under section 26 shall have effect until the same shall have been sanctioned by the [1][State] Government.

Making of first regulations.

28. Notwithstanding anything contained in section 26, the first regulations shall be made by the [1][State] Government and they shall continue in force till new regulations are made by the Board under the said section and sanctioned by the [1][State] Government under section 27.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

First appointment of University representatives.

29. The members referred to in paragraph (B) of sub-section (*2*) of section 3 may, on the first constitution of the Board, be nominated by the [1][State] Government but the members so nominated shall hold office only until they can be replaced by members elected as provided in that paragraph and the members so elected shall hold office so long only as the members replaced would have held office had they not been replaced.

Proceedings not invalidated by reason of vacancies.

30. No act or proceeding of the Board or of the Examiners Committee shall be invalidated merely by reason of any vacancy in, or any defect in the constitution of, the Board or the Committee.

Powers of Board to make bye-laws.

31. The Board may make bye-laws consistent with this Act and the regulations to provide for all or any of the following matters, namely :—

(*a*) the procedure to be followed at the meetings of the Board and the committees appointed by the Board and the number of members required to form a quorum at such meetings ;

(*b*) the travelling and other allowances which may be drawn by members of the Board and the committees appointed by the Board ;

(*c*) any other matter solely concerning the Board and such committees not provided for by this Act and the regulations.

Information, returns etc., to be furnished by Board.

32. (*1*) The Board shall furnish to the [1][State] Government such reports, returns and statements as may be required by the [1][State] Government and such further information relating to any matter connected with the work of the Board as the [1][State] Government may require.

(*2*) The [1][State] Government may, after considering any such report, return or statement and any information furnished by the Board, give such directions consistent with this Act as may be necessary and the Board shall comply with such directions.

Annual accounts and financial estimates.

33. (*1*) The Board shall prepare the annual accounts and submit them to the [1][State] Government for audit. [2][The State Government shall cause the accounts to be audited and the Board shall pay such charges for the audit as the State Government may, from time to time, determine.]

(*2*) The Board shall prepare before such date as may be prescribed the financial estimates for the ensuing year and forward them to the [1][State] Government for its sanction. The [1][State] Government may pass such orders with reference thereto as it thinks fit and communicate the same to the Board which shall give effect to such orders.

Interpretation in case of doubt.

[3][**33A.** If any question arises regarding the interpretation of any provision of this Act or of any regulations or by-laws made thereunder, the matter may be referred for decision to the State Government and shall be so referred to the State Government if not less than three members of the Board so require. The decision of the State Government shall be final.]

34-35. [*The amendments made by sections 34 and 35 of this Act have been incorporated in the Bombay University Act, 1928 and the Poona University Act, 1948 respectively.*]

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This portion was added by Bom. 56 of 1953, s. 7.
[3] Section 33A was inserted, *ibid*, s. 8.

THE INDIAN TRAMWAYS (BOMBAY AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 7 of Act XI of 1886.
3. Amendment of sections 10 and 12 of Act XI of 1886.
4. Insertion of new section 49 in Act XI of 1886.

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BOMBAY ACT No. L of 1948.[1]

[THE INDIAN TRAMWAYS (BOMBAY AMENDMENT) ACT, 1948.]

[*22nd October 1948*]

Adapted and modified by the Adaptation of Laws Order, 1950.

An Act to amend the Indian Tramways Act, 1886, in its application to the Province of Bombay.

XI of 1886. WHEREAS it is expedient to amend the Indian Tramways Act, 1886, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Indian Tramways (Bombay Amendment) Act, 1948.

Amendment of section 7 of Act XI of 1886. XI of 1886. 2. In sub-section (*1*) of section 7 of the Indian Tramways Act, 1886, hereinafter called the said Act, after the words "public traffic" the words "or private use, as the case may be" shall be inserted.

Amendment of sections 10 and 12 of Act XI of 1886. 3. In clause (*c*) of sub-section (*1*), and in sub-section (*2*), of section 10, and in section 12, of the said Act, after the words "public traffic", the words "or private use" shall be inserted.

Insertion of new section 49 in Act XI of 1886. 4. After section 48 of the said Act, the following new section shall be inserted, namely:—

Application of Act to tramways for private use. "49. Notwithstanding anything contained in this Act, the [2][State] Government may, by notification in the *Official Gazette*, exempt any tramway, which is not, or when completed will not be, [3][a railway as defined in article 366 of the Constitution], and which is constructed and maintained for private use, from the operation of any provisions of this Act or declare that any provisions of this Act shall apply to such tramway with such modifications as may be specified in the notification."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 299.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words and figures were substituted for the words, figures and brackets, "a federal railway as defined in sub-section (*2*) of section 311 of the Government of India Act, 1935", *ibid.*

THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of Act III of 1909.
3. Validation of certain rules and notces.
4. Repeal of Bom. Ordinance No. III of 1948.

BOMBAY ACT No. LI OF 1948.[1]

[THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1948.]

[*22nd October 1948.*]

An Act to amend the Presidency-towns Insolvency Act, 1909, in its application to the Province of Bombay.

III of 1909. WHEREAS it is expedient to amend the Presidency-towns Insolvency Act, 1909, in its application to the Province of Bombay, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Presidency-towns Insolvency (Bombay Amendment) Act, 1948. Short title.

III of 1909. **2.** In the Presidency-towns Insolvency Act, 1909,— Amendment of Act III of 1909.

(*a*) for clause (*i*) of section 9, the following shall be substituted, namely :—

" (i) if, after a creditor has served an insolvency notice on him under this Act in respect of a decree or an order for the payment of any amount due to such creditor, the execution of which is not stayed, he does not, within the period specified in the notice which shall not be less than one month, either comply with the requirements of the notice or satisfy the Court that he has a counter claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him.";

(*b*) in sub-section (*1*) of section 9A, after the words " or his agent " the words, " or to satisfy the Court that he has a counter claim orset off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him " shall be inserted.

3. The amendments made by this Act shall be deemed to have been made with effect from the 19th day of June 1939 and notwithstanding any judgment of any Court or anything contained in any law,— Validation of certain rules and notices.

III of 1909. (*a*) the rules including the forms relating to insolvency notices made by the High Court under the Presidency-towns Insolvency Act, 1909, before the 14th day of June 1948, shall be deemed to have been made under the said Act as amended to have been matle under the said Act as amended by this Act, and

(*b*) no insolvency notice issued under any of the said rules and no order of adjudication made for non-compliance with any such notice made before the 14th day of June 1948 shall be called in question in any Court on the ground merely that any of the rules under which or the form in which the notice was issued was not authorised by the provisions of the said Act.

Bom. Ordinance No. III of 1948. **4.** The Presidency-towns Insolvency (Bombay Amendment) Ordinance, 1948, is hereby repealed. Repeal of Bom. Ordinance No. III of 1948.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 387.

THE SOCIETIES REGISTRATION (BOMBAY AMENDMENT) ACT, 1948.

CONTENTS

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 12 of Act XXI of 1860.
3. Insertion of new sections 12-A, 12-B and 12-C and in Act XXI of 1860.

BOMBAY ACT No. LIII OF 1948.[1]

[THE SOCIETIES REGISTRATION (BOMBAY AMENDMENT) ACT, 1948.]

[*5th November 1948.*]

An Act to amend the Societies Registration Act, 1860, in its application to the Province of Bombay

XXI of 1860 WHEREAS it is expedient to amend the Societies Registration Act, 1860, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Societies Registration (Bombay Amendment) Act, 1948.

Amendment of section 12 of Act XXI of 1860. XXI of 1860. **2.** In section 12 of the Societies Registration Act, 1860, hereinafter called the said Act, after the words "other society" the words "or whenever the governing body of any society registered under this Act decides to change the name of the society" shall be inserted.

Insertion of new sections 12A, 12B and 12C in Act XXI of 1860. **3.** After section 12 of the said Act, the following new sections shall be inserted, namely:—

Registration of change of name. "12-A. (*1*) Where a proposition for change of name has been agreed to and confirmed in the manner prescribed by section 12, a copy of the proposition so agreed to and confirmed shall be forwarded to the Registrar of Companies for registering the change of name. If the proposed name is identical with that by which any other existing society has been registered, or in the opinion of the Registrar so nearly resembles such name as to be likely to deceive the public or the members of either society, the Registrar shall refuse to register the change of name.

(*2*) Save as provided in sub-section (*1*), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name and issue a certificate of registration altered to meet the circumstances of the case. On the issue of such a certificate the change of name shall be complete.

(*3*) The Registrar shall charge for any copy of a certificate issued under sub-section (*2*) a fee of rupee one and all fees so paid shall be accounted for to the Provincial Government.

Effect of change of name. 12-B. The change in the name of a society shall not affect any rights or obligations of the society or render defective any legal proceeding by or against the society; and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

Registration of change. 12-C. If any society registered under this Act has, before the date of the coming into force of the Societies Registration (Bombay Amendment) Act, 1948,

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Pt. V, page 447.

of names effected before coming into force of Bom. LIII of 1948.

intimated to the Registrar of Companies the change of its name and if the Registrar has recorded such change, the Registrar may, notwithstanding anything contained in this Act, on an application made by the society in this behalf and on payment of a fee as provided for in sub-section (*3*) of section 12-A, register the change of such name and issue a certificate to the society under sub-section (*2*) of the said section 12-A. On the issue of such certificate the change shall be deemed to be complete from the date on which such change was recorded by the Registrar, notwithstanding the fact that the society had not followed the procedure prescribed in sections 12 and 12-A."

Bom. LIII of 1948.

THE BOMBAY LOTTERIES AND PRIZE COMPETITIONS CONTROL AND TAX ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. All lotteries and all prize competitions unlawful.
4. Offences in connection with lotteries and prize competitions.
5. Licensed entertainment lotteries not unlawful.
6. Licensed private lotteries not unlawful.
7. Licensed prize competitions not unlawful.
8. Penalty for contravention of section 7.
9. Licences.
10. Power of State Government to issue orders pertaining to licences
11. Suspension or cancellation of licence.
12. Levy of tax on lotteries, and prize competitions.
12A. Levy of tax on lotteries and prize competitions in newspapers and publications printed and published outside State.
13. Calculation and recovery of tax levied under section 1.
14. Licence fee and other dues to be recoverable as arrears of land revenue.
15. Promoters of lotteries or prize competition to keep and maintain accounts, submit statements and to make declaration.
16. Penalty for failure to keep accounts, to submit statements, to make declaration or keeping or submitting or making false accounts, statements or declaration.
16A. Forfeiture of newspapers and publications containing unlawful lotteries or prize competitions.
17. Power of Collector to require production of accounts or to inspect accounts.
18. Power of entry and search.
19. Searches how made.
20. Power to arrest without warrant in certain cases.
21. Power of investigation.
22. Offences to be bailable.
23. Jurisdiction to try offences.
24. Government may authorise certain officers to perform functions of Collector.
25. Offences by corporations, etc.
26. Collectors and other officers to act subject to orders of State Government.
27. Officers to be public servants.
28. Protection of persons acting in good faith and limitation of suits and prosecutions.
29. Appeal and revision.
30. Exemption.
31. Rules.
32. Saving.
33. Repeal of section 294A of Act XLV of 1860
34. Repeal.

BOMBAY ACT No. LIV OF 1948.[1]

[THE BOMBAY LOTTERIES AND PRIZE COMPETITIONS CONTROL AND TAX ACT, 1948.]

[*15th November 1948*]

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 30 of 1952.

An Act to control and to tax lotteries and prize competitions in the Province of Bombay.

WHEREAS it is expedient to control and to levy a tax on lotteries and prize competitions in the Province of Bombay; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948.

(*2*) It extends to the whole of the [2][State] of Bombay.

(*3*) It shall come into force on such date as the [3][State] Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context—

(*a*) "coupon" includes, in relation to a prize competition, any document in which the solution to the competition is submitted by any person;

(*b*) "money" includes a cheque or any other negotiable instrument, a postal order or a money order;

(*c*) "newspaper" includes any journal, magazine or other periodical publication;

(*d*) "prize competition" includes—

[4][(*i*) (1) cross-word prize competition,

(2) missing word prize competition,

(3) picture prize competition,

(4) number prize competition, or

(5) any other prize competition, for which the solution is or is not prepared before hand by the promoters or for which the solution is determined by lot or chance;]

(*ii*) any competition in which prizes are offered for forecasts of the results either of a future event or of a past event the result of which is not yet ascertained or not yet generally known; and

(*iii*) any other competition success in which does not depend to a substantial degree upon the exercise of skill;

* * * * * *

[6][(*dd*) "promoter" includes a proprietor, manager, organizer or any person having the control or directing the conduct of a lottery or prize competition and in the case of a lottery or a prize competition conducted through a newspaper, includes the publisher of such newspaper:

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 245.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Provincial", *ibid.*

[4] This sub-clause was substituted for the original by Bom. 30 of 1952, s. 2 (*1*) (*i*).

[5] The words "but does not include a prize competition contained in a newspaper printed and published outside the State of Bombay" were deleted, *ibid.*

[6] Clause (*dd*) was added, *ibid*, s. 2 (*1*) (*ii*).

Provided that in the case of a lottery or prize competition contained in a newspaper or publication printed and published outside the State, the manager or agent of the publisher of such newspaper or publication in charge of its circulation or distribution shall be deemed to be a promoter of the lottery or prize competition for the purposes of this Act; and the words "promote" and "promoting" shall be construed accordingly;]

(*e*) "[1][State]" means the [1][State] of Bombay;

(*f*) "quarter" means a period of three months beginning from the 1st January to 31st March, from 1st April to 30th June, from 1st July to 30th September and from 1st October to 31st December in each year;

(*g*) "ticket" includes, in relation to any lottery or proposed lottery, any document evidencing the claim of a person to participate in the chances of the lottery.

(*2*) For the purposes of this Act—

(*a*) references to printing shall be construed as including references to writing and other modes of representing or reproducing words in a visible form; [2]*

(*b*) documents or other matters shall be deemed to be distributed if they are distributed to persons or places whether within or without the [1][State] and the expression "distribution" shall be [3][construed accordingly; and]

[4][(*c*) the Collector may, after making such inquiry as he deems fit, determine the person who is or is to be deemed to be a promoter in relation to a lottery or a prize competition, and his decision shall be final.]

All lotteries [5][and all prize competitions] unlawful.

3. Subject to the provisions of this Act, all lotteries [5][and all prize competitions] are unlawful.

Offences in connection with lotteries [5][and prize competitions]

4. (*1*) Subject to the provisions of this section every person who in connection with any lottery [6][or prize competition which is unlawful under the provisions of this Act, but which is] promoted or proposed to be promoted either in this [1][State] or elsewhere—

(*a*) publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in the lottery [6][or to the holding or production of any coupon]; or

(*b*) prints [7][any tickets or coupons for use in the lottery or prize competition]; or

(*c*) sells or distributes, or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution, [8][any tickets, coupons or chances in the lottery or prize competition]; or

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[1] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950
[2] The word "and" was deleted by Bom. 30 of 1952, s. 2 (*2*) (*i*).
[3] These words were substituted for the words "construed accordingly", *ibid*, s. 2 (*2*) (*ii*).
[4] Clause (*c*) was added, *ibid*, s. 2 (*2*) (*iii*).
[5] These words were inserted, *ibid*, s. 3.
[6] These words were inserted, *ibid*, s. 4.
[7] These words were substituted for the words "any tickets for use in the lottery", *ibid*.
[8] These words were substituted for the words "any tickets or chances in the lottery", *ibid*.

(*d*) prints, publishes or distributes, or has in his possession for the purpose of publication or distribution—

(*i*) any advertisement [1][of the lottery or prize competition]; or

(*ii*) any list (whether complete or not) of prize winners or [2][winning tickets or coupons in the lottery or prize competition]; or

(*iii*) any such matter descriptive of the drawing or intended drawing of the lottery, or otherwise relating to the [3][lottery or prize competition], as is calculated to act as an inducement to persons to participate [in that lottery or prize competition or in other lotteries or prize competitions]; or

(*e*) brings, or invites any person to send into the [5][State] for the purpose of sale or distribution any ticket [6][or coupon] in, or advertisement of, the lottery [6][or prize competition]; or

(*f*) sends or attempts to send out of the [5][State] any money or valuable thing received in respect of the sale or distribution, or any document recording the sale or distribution, or the identity of the holder, [7][any ticket, coupon or chance in the lottery or prize competition]; or

(*g*) uses any premises, or permits any premises to be used, for purposes connected with the promotion or conduct of the lottery [6][or prize competition]; or

(*h*) causes or attempts to cause any person to do any of the abovementioned acts shall, on conviction, be punishable,—

(*i*) for the first offence with fine which may extend to one thousand rupees;

(*ii*) for the second offence with fine which may extend to two thousand rupees; and

(*iii*) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both.

(*2*) In any proceedings instituted under sub-section (*1*), an accused person shall not be deemed to be guilty if he proves that [8][the lottery or prize competition to which the proceedings relate was such a lottery or prize competition as is not deemed to be unlawful] under section 5, 6 or 7, as the case may be, and that at the date of the alleged offence the accused believed and has reasonable ground for believing that none of the conditions required by section 5 or 6 to be observed in connection with the promotion and conduct of the lottery had been broken.

Licensed entertainment lotteries not unlawful.

5. (*1*) A lottery promoted as an incident of an entertainment shall be deemed to be an unlawful lottery, unless the promoter thereof has obtained a licence in respect of such lottery.

[1] These words were substituted for the words " of the lottery" by Bom. 30 of 1952, s. 4.
[2] These words were substituted for the words " winning tickets in the lottery ", *ibid.*
[3] These words were substituted for the word " lottery " *ibid.*
[4] These words were substituted for the words " in that lottery or in other lotteries ", *ibid.*
[5] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.
[6] These words were inserted by Bom. 30 of 1952, s. 4.
[7] These words were substituted for the words " of any ticket or chance in the lottery ", *ibid.*
[8] These words were substituted for the words beginning with the words " the lottery to " and ending with the words " or prize competition ", *ibid*, s. 4 (*3*).

(*2*) The following conditions shall be observed by the promoter in connection with the promotion and conduct of such lottery, namely :—

(*a*) the whole proceeds of the entertainment (including the proceeds of the lottery) after deducting—

(*i*) the expenses of the entertainment, excluding expenses incurred in connection with the lottery ;

(*ii*) the expenses incurred in printing tickets in the lottery ; and

(*iii*) such sum (if any) not exceeding one hundred rupees, which the promoters of the lottery think fit to appropriate on account of any expense incurred by them in purchasing prizes in the lottery,

shall be devoted to purposes other than private gain ;

(*b*) none of the prizes in the lottery shall be money prizes ;

(*c*) tickets or chances in the lottery shall not be sold or issued, nor shall the result of the lottery be declared, except on the premises on which the entertainment takes place and during the progress of the entertainment ; and

(*d*) the facilities afforded for participating in lotteries shall not be the only, or the only substantial, inducement to persons to attend the entertainment.

(*3*) If any of the conditions specified in sub-section (*2*) is broken, every person concerned in the promotion or conduct of the lottery shall, on conviction, be punishable—

(*a*) for the first offence with fine which may extend to one thousand rupees ;

(*b*) for the second offence with fine which may extend to two thousand rupees ; and

(*c*) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both :

Provided that in any proceeding under this section, it shall be a defence to prove that the breach was committed without his knowledge.

Explanation.—The entertainments to which this section applies are bazaars, sales of work, fetes and other entertainments of a similar character, whether limited to one day or extending over two or more days.

sed private lotteries not unlawful.

6. (*1*) A private lottery shall be deemed to be an unlawful lottery unless the promoter thereof has obtained a licence in respect of such lottery.

(*2*) The following conditions shall be observed by the promoter in connection with the promotion and conduct of such lottery, namely :—

(*a*) the whole proceeds, after deducting only expenses incurred for printing and stationery, shall be devoted to the provision of prizes for purchasers of tickets or chances, or, in the case of a lottery promoted for the members of a society, shall be devoted either to the provision of prizes as aforesaid or to purposes which are purposes of the society or, as to part, to the provision of prizes as aforesaid and, as to the remainder, to such purposes as aforesaid ;

(*b*) there shall not be exhibited, published or distributed any written notice or advertisement of the lottery other than—

(*i*) a notice thereof exhibited on the premises of the society for whose members it is promoted or, as the case may be, on the premises on which the persons for whom it is promoted work or reside ; and

(*ii*) such announcement or advertisement thereof as is contained in the tickets, if any ;

(*c*) the price of every ticket or chance shall be the same and the price of any ticket shall be stated on the ticket ;

(*d*) every ticket shall bear upon the face of it the names and address of each of the promoters and a statement of the persons to whom the sale of tickets or chances by the promoters is restricted, and a statement that no prize won in the lottery shall be paid or delivered by the promoters to any person other than the person to whom the winning ticket or chance was sold by them, and no prize shall be paid or delivered except in accordance with that statement ;

(*e*) no ticket or chance shall be issued or allotted by the promoters except by way of sale and upon receipt of the full price thereof, and no money or valuable thing so received by a promoter shall in any circumstances be returned ; and

(*f*) no tickets in the lottery shall be sent through the post.

(*3*) If any of the conditions specified in sub-section (*2*) is broken, each of the promoters of the lottery, and where the person by whom the condition is broken is not one of the promoters, that person also, shall, on conviction, be punishable—

(*a*) for the first offence with fine which may extend to one thousand rupees ;

(*b*) for the second offence with fine which may extend to two thousand rupees ; and

(*c*) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both :

Provided that in any proceeding under this section, it shall be a defence for a person charged only by reason of his being a promoter of the lottery to prove that the offence was committed without his knowledge.

Explanation.—For the purposes of this section—

(*a*) the expression "private lottery" means a lottery in the [1][State] which is promoted for, and in which the sale of tickets or chances by the promoters is confined to, either—

(*i*) members of one society established and conducted for purposes not connected with gaming, wagering or lotteries ; or

(*ii*) persons all of whom work on the same premises ; or

(*iii*) persons all of whom reside on the same premises, and which is promoted by persons each of whom is a person to whom under the foregoing provisions tickets or chances may be sold by the promoters and, in the case of a lottery promoted for the members of a society, is a person authorised in writing by the governing body of the society to promote the lottery ; and

(*b*) the expression "society" includes a club, institution, organisation or other association of persons by whatever name called, and each local or affiliated branch or section of a society shall be regarded as a separate and distinct society.

[1] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

Licensed prize competitions not unlawful.

7. A prize competition shall be deemed to be an unlawful prize competition unless a licence in respect of such competition has been obtained by the promoter thereof:

Provided that a licence may be granted for more than one such competition conducted by the same person:

[1][Provided further that the State Government may grant exemption in respect of a prize competition contained in any newspaper or publication printed and published outside the State if the State Government is satisfied that the promoter has no intention of promoting the prize competition within the State.]

Penalty for contravention of section 7.

8. Without prejudice to his liability, if any, to be proceeded against under the preceeding provisions of this Act relating to lotteries [2][or prize competitions], whoever contravenes the provisions of section 7 shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Licences.

9. Every licence granted under this Act shall be granted by the Collector on payment of such fees and subject to such conditions and shall be in such form as may be prescribed.

Power of [3][State] Government to issue orders pertaining to licences.

10. Notwithstanding anything contained in this Act or any rules made thereunder, it shall be lawful for the [3][State] Government by general or special order to—

(*a*) prohibit the grant of licences in respect of a lottery or prize competition or class of lotteries or prize competitions throughout the [4][State] or in any area;

(*b*) prescribed the maximum number of licences which may be granted in any area;

(*c*) direct that no licences specified in such order shall be granted without the previous approval of the [3][State] Government;

(*d*) issue such other instructions in any matter pertaining to the grant or otherwise of licences under the Act as the [3][State] Government may deem proper.

Suspension or cancellation of licence.

11. The Collector may suspend or cancel a licence granted under this Act—

(*1*) if there is any breach of any of the conditions subject to which the licence is granted; or

(*2*) if the holder of such licence contravenes any of the conditions specified in section 5 or 6; or

(*3*) if any tax payable under section 12 is not duly paid by the promoter; or

(*4*) if the holder of such licence contravenes any of the provisions of section 15; or

(*5*) for any other reason, for which the suspension or cancellation of the licence is, in the opinion of the [3][State] Government, necessary in the public interest.

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[1] This proviso was added by Bom. 30 of 1952, s. 5.
[2] These words were inserted, *ibid*, s. 6.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] This word was substituted for the word "Province", *ibid*.

Levy of tax on lotteries and prize competitions.

[1][**12.** (*1*) There shall be levied,—

(*a*) in respect of every lottery for which a licence has been obtained under section 5 or 6, a tax at the rate of 25 per cent. of the total sum received or due in respect of such lottery; and

(*b*) in respect of every prize competition for which a licence has been obtained under section 7, a tax at the rate of 25 per cent. of the total sum received in respect of such competition.

The tax shall be collected from the promoter of such lottery or prize competition, as the case may be.

(*2*) Notwithstanding anything contained in clause (*b*) of sub-section (*1*), the State Government may, by notification in the *Official Gazette*, direct that the tax to be levied in respect of a prize competition shall be at such rate not exceeding 50 per cent. of the total sum received or due in respect of such prize competition as may be specified in the notification. Such rate may be different in the case of different prize competitions, having regard to the total sum received in respect of such competitions as disclosed from the statements submitted to the Collector under section 15 for the period of twelve consecutive months immediately preceding the date of the notification under this sub-section.]

Levy of tax on lotteries and prize competitions in newspapers and publications printed and published outside State.

[2][**12A.** Notwithstanding anything contained in section 12, there shall be levied in respect of every lottery or prize competition contained in a newspaper or publication printed and published outside the State, for which a licence has been obtained under section 5, 6 or 7, a tax at such rates as may be specified by the State Government in a notification in the *Official Gazette* not exceeding the rates specified in section 12 on the sums specified in the declaration made under section 15 by the promoter of the lottery or prize competition as having been received or due in respect of such lottery or prize competition or in a lump sum having regard to the circulation or distribution of the newspaper or publication in the State].

Calculation and recovery of tax levied under section 12.

13. (*1*) The amount of tax to be levied in respect of a lottery or prize competition under section 12 shall be calculated by the Collector on the total sum received or due in respect of the lottery or prize competition as disclosed in the accounts maintained and statements submitted to him [3][or a declaration made before him] under section 15.

[4][(*2*) In cases where no such accounts are maintained, or no such statements are submitted, or no such declaration is made, or where such accounts, statements or declaration are or is in the opinion of the Collector false or incorrect, the Collector shall make the calculation to the best of his judgment.]

(*3*) The tax leviable under section 12 shall in the case of a prize competition be paid within 30 days of the end of each quarter and in the case of a lottery be paid within 30 days of the date on which such lottery is drawn.

(*4*) If any tax payable under section 12 is in arrear the Collector may, in lieu thereof, recover any sum not exceeding double the amount of the tax so unpaid or any smaller sum above the amount of the tax which the Collector may think it reasonable to recover.

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[1] Section 12 was substituted for the original by Bom. 30 of 1952, s. 7.
[2] Section 12A, was inserted, *ibid*, s. 8.
[3] These words were inserted, *ibid*, s. 9 (*1*).
[4] Sub-section (2) was substituted for the original, *ibid*, s. 9 (*2*).

Licence fee and other dues to be recoverable as arrears of land revenue.

14. All sums payable as fees or taxes under this Act shall be recoverable as arrears of land revenue.

Promoters of lotteries or prize competition to keep and maintain accounts, [2][submit statements and to make declaration].

15. Every person promoting a lottery or prize competition of any kind shall keep and maintain accounts relating to such lottery or competition and shall submit to the Collector statements in such form and at such period as may be prescribed:

[1][Provided that in the case of a lottery or prize competition contained in a newspaper or publication printed and published outside the State every person promoting such lottery or prize competition shall make a declaration in such form and at such period as may be prescribed.]

Penalty for failure to keep accounts, to submit statements, to make declaration or keeping or submitting or making false accounts, statements or declaration.

[3][**16.** If any promoter of a lottery or prize competition liable under section 15 to keep accounts, to submit statements or to make a declaration fails to keep accounts, to submit statements or to make a declaration in the manner and at the period prescribed or keeps accounts, submits statements or makes a declaration which he knows to be or has reason to believe to be false, he shall, on conviction, be punished with fine which may extend to five hundred rupees.]

Forfeiture of newspapers and publications containing unlawful lotteries or prize competitions.

[4][**16A.** Where any newspaper or publication, wherever printed or published,* contains an unlawful lottery or prize competition the Collector may, by notification in the *Official Gazette*, declare every copy of the issue of the newspaper or every copy of such publication containing such lottery or prize competition to be forfeited to the State Government.]

Power of Collector to require production of accounts or to inspect accounts.

17. The Collector may, for the purposes of this Act, at all reasonable times—

(*i*) require any promoter of a lottery or prize competition to produce before him accounts or other documents or to furnish any other information; or

(*ii*) inspect the accounts of any such promoter.

Power of entry and search.

18. It shall be lawful for a police officer—

(*i*) in Greater Bombay not below the rank of a Sergant or Sub-Inspector and either empowered by general order in writing or authorised in each case by special warrant issued by the Commissioner of Police, Bombay, and

(*ii*) elsewhere not below the rank of a Sub-Inspector of Police authorised by a special warrant issued in each case by a Magistrate of the First Class or a District

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[1] This proviso was added by Bom. 30 of 1952, s. 10 (*1*).
[2] These words were added, *ibid*, s. 10 (*2*).
[3] Section 16 was substituted for the original, *ibid*, s. 11.
[4] Section 16A was inserted, *ibid*, s. 12.
[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Superintendent of Police or by an Assistant or Deputy Superintendent of Police specially empowered by the [5][State] Government in this behalf—

(*a*) to enter, with the assistance of such persons as may be found necessary, by night or by day, and by force, if necessary, any house, room or place which he has reason to suspect is used for purposes connected with the promotion or conduct of any lottery or prize competition;

(*b*) to search all parts of the house, room or place which he shall have so entered, the persons whom he shall find therein and also such persons as may be specified by name in the warrant;

(*c*) to take into custody and bring before a Magistrate all such persons;

(*d*) to seize all things which are reasonably suspected to have been used or intended to be used in connection with a lottery or prize competition and which are found therein:

Provided that no officer shall be authorised by special warrant unless the Commissioner of Police, the Magistrate, the District or Assistant or Deputy Superintendent of Police concerned is satisfied, upon any complaint made before him on oath and upon making such inquiry as he may think necessary, that there are reasonable grounds, to suspect the said house, room or place to be used for purposes connected with the promotion or conduct of an unlawful lottery or prize competition.

Searches how made

19. All searches made under section 18 shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Power to arrest without warrant in certain cases.

20. A Police Officer may apprehend without warrant any person found, or reasonably suspected of, committing an offence under clause (*a*), (*c*) or (*d*) of sub-section (*1*) of section 4 in any public street, or thoroughfare or in any place to which the public have or are permitted to have access.

Power of investigation.

21. (*1*) Every Officer not below the rank of sub-inspector of police shall have power to investigate all offences punishable under this Act.

(*2*) Every such officer shall, in the conduct of such investigation, exercise the powers (except the power to arrest without warrant otherwise than under section 20) conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence. V of 1898.

Offences to be bailable

22. All offences punishable under this Act shall be bailable.

Jurisdiction to try offences.

23. No Magistrate, below the rank of a Presidency Magistrate or a Magistrate of the Second Class, shall try an offence under this Act.

Government may authorise certain officers to perform functions of Collector.

24. The [1][State] Government may, by general or special order, authorise any officer to perform the functions to be performed by the Collector under any of the provisions of this Act.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Offences by corporations, etc.

25. Where a person committing an offence under this Act is a company or other body corporate or an association of persons (whether incorporated or not) every person who at the time of the commission of the offence was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Collectors and other officers to act subject to orders of [1][State] Government.

26. The Collectors and all officers duly authorised under section 24 shall exercise the powers and perform the duties conferred and imposed on them by or under this Act in accordance with such orders as the [1][State] Government may from time to time make.

Officers to be public servants.

27. All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860

Protection of persons acting in good faith and limitation of suits and prosecutions.

28. (*1*) No suit, prosecution or other legal proceeding shall be instituted against any officer of the [2][Government] for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(*2*) No suit shall be instituted against the [3][State] and no prosecution or suit shall be instituted against any officer of the [2][Government] in respect of any thing done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Appeal and revision.

29. (*1*) Any person aggrieved by any order passed under this Act by the Collector or any officer authorised under section 24 may appeal against such order to the Commissioner or to such officer as the [1][State] Government may appoint in this behalf.

(*2*) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-section (*3*), be final and shall not be liable to be called in question in any court of law whether in a suit or other proceeding or by way of appeal or revision.

(*3*) The [1][State] Government may, at any time, call for and examine the record of any order of, or the proceedings recorded by, any officer or person for the purpose of satisfying itself as to the legality or propriety of such order passed by, or as to the regularity of such proceedings of, such officer or person and may pass such order in reference thereto as it thinks fit.

Exemption.

30. The [1][State] Government may exempt from all or any of the provisions of this Act any prize competition the net proceeds of which are to be devoted to a charitable purpose.

Rules.

31. (*1*) The [1][State] Government may, by notification in the *Official Gazette* make rules for the purposes of carrying out the provisions of this Act.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Crown", *ibid.*
[3] This word was substituted for the word "Province", *ibid.*

(*2*) In particular and without prejudice to the generality of the foregoing provision the [1][State] Government may make rules for the following matters :—

(*i*) the form of licence and the fees on payment of which and the conditions subject to which a licence shall be granted under section 9 ;

(*ii*) the manner in which the accounts shall be kept and maintained and the form in which, the period at which, the statements of accounts are to be submitted [2][or a declaration is to be made] under section 15.

(*3*) Any rule made under this section may provide that any person contravening any such rule shall, on conviction, be liable to fine which may extend to fifty rupees.

(*4*) Rules made under this section shall be subject to the condition of previous publication.

Saving.

32. Nothing in this Act shall apply to—

(*a*) the owner, lessee or occupier of any race course to whom a licence has been granted for horse racing on a race course under section 4 of the Bombay Race Courses Licensing Act, 1912, or to any person who carries on the business or vocation of or acts as a book-maker or turf commission agent under a licence or permit issued by such owner, lessee or occupier to enable him to carry on his business or vocation under the said Act as specified in the licence or permit or to any entries in respect of any stake or bet received by such person ;

Bom. III of 1912.

[3][(*b*) a lottery organised by the Central Government or the Government of a Part A State or a Part B State ;]

(*c*) a lottery specially authorised by the [1][State] Government.

Repeal of section 294A of Act XLV of 1860.

33. The provisions of section 294-A of the Indian Penal Code, in its application to the [4][State] of Bombay, are hereby repealed.

XLV of 1860.

Repeal.

34. The Bombay Prize Competition Tax Act, 1939, is hereby repealed :

Bom. XI of 1939.

Provided that all licences granted under the said Act and in force on the date on which this Act comes into force shall be deemed to be granted under this Act.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] These words were inserted by Bom. 30 of 1952, s. 13.
[3] Clause (*b*) was substituted for the original by the Adaptation of Laws Order, 1950.
[4] This word was substituted for the word " Province ", *ibid.*

THE BOMBAY ANIMAL CONTAGIOUS DISEASES (CONTROL) ACT, 1948.

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SCHEDULE.

BOMBAY ACT No. LIX OF 1948.[1]

[THE BOMBAY ANIMAL CONTAGIOUS DISEASES (CONTROL) ACT, 1948.]

[*30th November 1948*]

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 9 of 1951.

An Act to provide for the prevention and control of contagious diseases affecting animals.

WHEREAS it is expedient to provide for the prevention and control of contagious diseases affecting animals ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called the Bombay Animal Contagious Diseases (Control) Act, 1948.

Extent and commencement.

2. (*1*) This Act extends to the whole of the [2][State] of Bombay.

(*2*) This section shall come into force at once. The [3][State] Government may, from time to time, by notification in the *Official Gazette*, direct that all or any of the remaining provisions of this Act shall come into force in such area in respect of such scheduled disease and on such date as may be specified in the notification and may by similar notification direct that such provisions shall cease to be in force in any area from such date as may be specified therein.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "animal" means any domesticated animal or bird, or any animal or bird kept in confinement ;

(*b*) "export" means to take out of the [2][State] otherwise than across a customs frontier as defined by the Dominion Government ;

(*c*) "import" means to bring into the [2][State] otherwise than across a customs frontier as defined by the Dominion Government ;

(*d*) "infective animal" means an animal which is affected with a scheduled disease or has recently been in contact with or in close proximity to an animal so affected ;

(*e*) "Inspector" means an Inspector appointed under section 4 ;

(*f*) "prescribed" means prescribed by rules made under section 36 ;

(*g*) "rules" means rules made under section 36 ;

(*h*) "scheduled disease" means any disease specified in the Schedule to this Act;

(*i*) "transport" means to remove to one place from another place within the [2][State] ;

(*j*) "Veterinary Surgeon" means a Veterinary Surgeon appointed under section 4 ;

Appointment of Veterinary Surgeons and Inspectors.

4. (*1*) The [3][State] Government may, by notification in the *Official Gazette*, appoint a person to be a Veterinary Surgeon for the purposes of this Act for such local area as may be specified in the notification and may specify the area within which he shall exercise the powers and perform the duties of a Veterinary Surgeon under this Act.

(*2*) The [3][State] Government may, by a similar notification in the *Official Gazette*, appoint a person to be an Inspector for all or any of the purposes of this Act and specify the area within which he shall exercise the powers and perform the duties of an Inspector under this Act.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 475.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Provincial", *ibid.*

(*3*) A Veterinary Surgeon shall, within the area for which he is appointed, exercise all the powers which an Inspector may exercise under this Act and may exercise such powers in addition to his powers as Veterinary Surgeon.

Veterinary Surgeons and Inspectors to be public servants.

5. Every Veterinary Surgeon and every Inspector appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

PART II.

PREVENTION AND CONTROL OF SCHEDULED DISEASES.

Power to prohibit or regulate import, export or transport of, holding of markets, fairs, etc. of, and traffic in, infective animals, etc.

6. (*1*) The [1][State] Government may, for the purpose of preventing the outbreak or spread of any scheduled disease by notification in the *Official Gazette*, prohibit, control or regulate in such manner and to such extent as it may think fit—

(*a*) the import, export or transport of any animals, or the carcasses thereof, or of any part of animals or carcasses thereof or of any fodder, bedding or other thing used in connection with animals, which may, in the opinion of the [1][State] Government, carry infection, or

(*b*) the holding of animal markets, animal fairs, animal exhibitions or other concentration of animals in any specified area, or

(*c*) the sale or other dealings in, infective animals or the carcasses of animals, which at the time of their death were infective, or any fodder, bedding or other thing used in connection with such animals which may, in the opinion of the [1][State] Government, carry infection.

(*2*) The [1][State] Government may, by notification in the *Official Gazette*, specify the season or seasons during which and the route or routes by which animals may be imported into the [2][State] and no person shall import animals into the [2][State] otherwise than during the season and by the route so appointed.

Establishment of quarantine stations.

7. (*1*) The [1][State] Government may establish quarantine stations for the inspection and detention of animals along the route appointed under sub-section (*2*) of section 6.

(*2*) All animals inspected or detained at a quarantine station shall be liable—

(*a*) to be vaccinated against any scheduled disease if in the opinion of the officer in charge of such station it is necessary to do so ; and

(*b*) to be marked in the prescribed manner.

(*3*) The period of detention of animals at a quarantine station for the purpose of inspection, vaccination and marking shall be such may be prescribed.

(*4*) The animals detained at a quarantine station shall remain under the care of the person in charge who shall be responsible for their feeding and upkeep and for the payment of such fee for their vaccination and marking as may be prescribed.

(*5*) The officer in charge of the quaratine station shall, at the time of release of an animal from the station, grant in such form as may be prescribed a premit to the person in charge of the animal and such person shall, while in charge of the animal, produce it whenever required to do so by an Inspector or a Police Officer.

Power to isolate infective animals and their examination.

8. (*1*) Where an Inspector has reason to believe that any animal is infective he may, by order in writing, direct the owner or person in charge of such animal to keep it where it is for the time being or to remove it or allow it to be removed to such place of isolation or segregation as may be specified in the order :

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Province," *ibid.*

Provided that where there is no person in charge of the animal and the owner is unknown, or where the order cannot be communicated to the owner of the animal without undue delay or where the person in charge of the animal refuses to comply with the order under this sub-section, the Inspector may seize the animal and remove it to a place of isolation or segregation.

(*2*) The Inspector shall forthwith report to the Veterinary Surgeon every order or seizure under sub-section (*1*).

Power of Veterinary Surgeons to examine animals.

9. (*1*) On receipt of a report under sub-section (*2*) of section 8 the Veterinary Surgeon shall, as soon as practicable, examine the animal and all animals with which it has been in contact or to which it has been in close proximity, and for this purpose may submit any animal to any prescribed test.

(*2*) If after such examination the Veterinary Surgeon—

(*a*) is of opinion that any animal is not infective, the Inspector shall forthwith return it to the person who, in his opinion, is entitled to its possession :

Provided that where such person cannot, in the opinion of the Inspector, be found after reasonable inquiry, he shall send the animal to the nearest cattle pound or deal with it in such other manner as may be prescribed,

(*b*) certifies in writing that any animal is affected with a scheduled disease, the Inspector shall destroy the animal, or deal with it in such other manner as may be prescribed, or

(*c*) certifies in writing that any animal is infective, though not diseased the animal shall be dealt with in such manner as may be prescribed.

(*3*) The dec sion of the Veterinary Surgeon whether any animal has been in contact with or in close proximity to an animal suspected to be affected with a scheduled disease shall be final.

Compensation for animals destroyed.

10. (*1*) The owner of an animal destroyed under-sub-section (*2*) of section 9 may be paid such compensation as shall be determined in the manner prescribed :

Provided that no compensation shall be paid—

(*i*) to any person convicted of any offence punishable under this Act committed in respect of such animal ; or

(*ii*) in respect of any animal which, when it was imported, was affected with a scheduled disease on account of which it was destroyed.

(*2*) The decision under sub-section (*1*) regarding the right of a person to be paid any compensation or the amount of such compensation shall be final.

Declaration of private infected places and examination of such places by Veterinary Surgeon.

11. (*1*) If an Inspector has reason to believe that an infective animal is kept on any land, or in any building or other place he shall, forthwith, by order in writing, declare such land, building or place to be an infected place. The Inspector shall deliver a copy of the order to the owner, occupier or person in charge of the infected place and report his action to the Veterinary Surgeon.

Nothing in this sub-section shall apply to any place which is owned by or is under the control or management of, any local authority or a railway administration and in which animals are kept temporarily for purposes of sale or exhibition or while in transit.

(*2*) On receipt of a report under sub-section (*1*), the Veterinary Surgeon shall, as soon as practicable, examine the infected place and the animals kept therein. After such examinaton, he shall either confirm or cancel the order passed by the Inspector.

(*3*) If the Veterinary Surgeon confirms the order passed by the Inspector, he may declare all places in which animals are kept, temporarily or otherwise, within a radius not exceeding one mile from the infected place, to be infected places. The Veterinary Surgeon shall give a written notice of such declaration to the owners, occupiers or persons in charge of such places. The Veterinary Surgeon shall thereafter report the action taken by him under this section to the prescribed authority.

(*4*) If the Veterinary Surgeon cancels the order passed by the Inspector, the place specified in such order shall cease to be an infected place and the Inspector shall give notice accordingly to the owner, occupier or person in charge of such place.

Declaration of public infected places.

12. (*1*) Where the Veterinary Surgeon has reason to believe that an infective animal is or has been kept in any place which is owned by or is under the control or management of any local authority or railway administration or a port authority and in which animals are kept temporarily for purposes of sale, or exhibition or while in transit, he may, by order in writing, declare such place to be an infected place.

(*2*) The Veterinary Surgeon shall—

(*a*) cause a copy of the order passed by him under sub-section (*1*) to be exhibited prominently in the infected place in the regional language of the locality ;

(*b*) cause a copy of such order to be delivered at the office of the local authority or to the station master of the nearest railway station or to the Officer in charge of the port or in charge of a shipping office at such port, as the case may be ;

(*c*) cause a copy of the order to be sent to the nearest police station ; and

(*d*) forthwith report the action taken by him to the prescribed authority.

Power of Provincial Government to declare infected areas.

13. (*1*) On receipt of the report of the Veterinary Surgeon under sub-section (*3*) of section 11 or sub-section (*2*) of section 12, the prescribed authority shall, after making such further inquiry as it thinks fit, submit such report with his remarks thereon, to the Provincial Government.

(*2*) The Provincial Government on receipt of the report from the prescribed authority may—

(*a*) confirm the declaration under sub-section (*1*) or (*3*) of section 11 or sub-section (*1*) of section 12 either with or without modification ; or

(*b*) cancel any such declaration.

(*3*) Where the Provincial Government confirms any such declaration, either with or without modification, a notification shall be published in the *Official Gazette*, defining the limits of the area to which the declaration, with the modifications, if any, made therein, shall apply and declaring such area to be an infected area.

(*4*) The Provincial Government may by notification in the *Official Gazette* add to, amend, vary or rescind any notification published under sub-section (*3*) either on its own motion or on a further report of the Veterinary Surgeon submitted to it through the prescribed authority

(*5*) On publication of a notification under sub-section (*3*) or (*4*), any place declared by the Inspector or the Veterinary Surgeon to be an infected place and not included in the infected area as defined in such notification shall cease to be an infected place and the Inspector shall give notice accordingly to the owner, occupier or person in charge of such place.

(*6*) The Inspector shall cause to be exhibited in some prominent place in the infected area and in the regional language thereof a copy of the notification issued under sub-section (*3*) or (*4*).

(*7*) Where the [1][State] Government cancels any declaration referred to in sub-section (*2*), any place specified in such declaration shall cease to be an infected place and the Inspector shall give notice accordingly to all persons to whom copies of such declaration were delivered or on whom notices of such declaration were served.

Removal of animals and other things from infected area or place prohibited without licence.

14. (*1*) Where any area or place has been declared to be an infected area or place under the foregoing provisions, no person shall, while such a declaration remains in force, remove any infected animal, alive or dead, or any part of an animal or any food, bedding or other thing used in connection with an animal, save in accordance with the conditions of a licence granted by the Inspector.

(*2*) Nothing contained in sub-section (*1*) shall apply to the carriage by a railway of any animal or thing referred to in that sub-section through an infected area or place :

Provided that where any such animal or thing while in transit through an infected area or place is unloaded therein, it shall not be removed therefrom save in accordance with the provisions of sub-section (*1*).

Power to require animals, etc., to be brought to infected areas.

15. Where any animal or thing referred to in section 14 is removed from an infected area or place otherwise than in accordance with the conditions of a licence granted under the said section 14, any Inspector or Police Officer may require the owner or person in charge of such animal or thing to take it back to such area or place :

Provided that nothing in this section shall affect the powers of an Inspector under section 8 to deal with infective animals.

Cleansing and disinfection of vessels and vehicles.

16. (*1*) Every vessel or vehicle used by a common carrier for the transport of animals shall be cleansed and disinfected by him at such periods and in such manner as may prescribed.

(*2*) The person in charge of every such vessel or vehicle shall, when required to do so by an Inspector, cause the vessel or vehicle to be taken to such place as the Inspector may direct and to stop and remain stationary for so long as may reasonably be necessary for the purpose of enabling the Inspector to inspect such vessel or vehicle. The Inspector may, after such inspection, if in his opinion the vessel or vehicle is not in a sanitary condition, require it to be cleansed and disinfected in the prescribed manner.

(*3*) Nothing in this section shall apply to the rolling stock of any railway.

Power to require disinfection of infected premises, vessels or vehicles.

17. Subject to such rules as may be prescribed, the Veterinary Surgeon [2][may], by order in writing, require the owner, occupier or person in charge of any land, building, or other place or of any vessel or vehicle in which an infective animal has been kept to have such land, building, place, vessel or vehicle disinfected, and the internal fittings thereof and other things found therein or near thereto to be disinfected or destroyed in, such manner and to such extent as may be specified in the order.

Power of Veterinary Surgeon to hold post-mortem.

18. Subject to such rules as may be prescribed the Veterinary Surgeon may make or cause to be made a post-mortem examination of any animal which at the time of its death was infective or is suspected to have been infective, and for this purpose he may cause the carcass of such animal to be exhumed.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was inserted by Bom. 9 of 1951, s. 3. Second Schedule.

MO-IV Bk H 181—13*a*

Duty of certain persons to report scheduled disease.

19. Every owner or person in charge of, and every Veterinary practitioner who has been called to treat, an animal which he has reason to believe to be affected with a scheduled disease shall forthwith report the fact to the Inspector having jurisdiction in the area.

Keeping or grazing infective animal prohibited.

20. No person shall keep or graze in open or unenclosed land to which other persons have a right of access for their animals, any animal which he knows to be infective.

Bringing of infective animals in market, etc., prohibited.

21. No person shall bring or attempt to bring into any market, fair, exhibition or other concentration of animals, any animal which he knows to be infective.

Placing of carcass of infective animals in river, etc., prohibited.

22. No person shall place or cause or permit to be placed in any river, lake, canal or other water or in the sea within such distance from the shore, as may be prescribed, the carcass or any part of the carcass of any animal which at the time of its death was infective or which was destroyed on account of its being infective or suspected to be infective.

Disinterring without lawful authority carcass of animal prohibited.

23. No person shall without lawful authority disinter or cause to be disinterred the carcass or any part of the carcass of any animal which, at the time of its death was infective or which was destroyed on account of its being infective or suspected to be infective.

Powers of entry and inspection.

24. Subject to such rules as may be prescribed, an Inspector may enter upon and inspect any land, building or other place or any vessel or vehicle for the purpose of exercising the powers and performing the duties conferred or imposed on him by or under this Act.

Enforcement of orders and recovery of expenses.

25 (*1*) Where by any notice, requisition, or order made under this Act or under any rule or notification issued thereunder, any person is required to take any measures or to do anything in respect of any property owned or occupied by him or in his charge, a reasonable time shall be specified in such notice, requisition or order within which such measures shall be taken or such things shall be done, as the case may be.

(*2*) If such measures are not taken or such thing is not done within the time so specified, the authority issuing the notice, requisition or order may cause the measures to be taken or the thing to be done at the cost of the person concerned.

(*3*) The costs of any measures taken or thing done under sub-section (*2*) shall be recoverable from the person concerned in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of fines imposed by a Court as if such costs were a fine imposed by a Court. V of 1898.

Power of Inspector to decide whether or not animal is infective

26. If any question arise under this Act whether or not an animal is an infective animal, the question shall be decided by the Veterinary Surgeon and his decision shall be final.

Penalties.

27. Whoever—

(*i*) fails to carry out any direction specified in, or contravenes the terms of, any notification issued under section 6 or imports any animal in contravention of the provisions of sub-section (*2*) thereof, or

(*ii*) fails to feed or look after the upkeep of the animal under sub-section (*4*) of section 7 or fails to produce the permit under sub-section (*5*) thereof, or

(*iii*) fails to comply with an order made by an Inspector under sub-section (*1*) of section 8, or

(*iv*) removes any animal or thing from an infected area or place in contravention of the provisions of section 14, or

(*v*) fails to comply with any direction given by an Inspector or a Police Officer under section 15, or

(*vi*) fails to cleanse or disinfect any vessel, or vehicle used for removing animals in the manner prescribed as required under sub-section (*1*), or fails to cause any vessel or vehicle to stop and remain stationary when required to do so under sub-section (*2*), of section 16, or

(*vii*) fails to comply with an order made by a Veterinary Surgeon under section 17, or

(*viii*) fails to report that an animal is infective as required by section 19, or

(*ix*) keeps or grazes any animal which he knows to be infective in contravention of the provisions of section 20, or

(*x*) brings or attempts to bring any animal which he knows to be infective in contravention of the provisions of section 21, or

(*xi*) disinters or causes to be disinterred the carcass or any part of the carcass of any animal which at the time of its death was infective or was destroyed on account of its being infective or suspected to be infective in contravention of the provisions of section 23,

shall, on conviction, be punished with fine which may extend in the case of a first conviction to one hundred rupees, and in the case of a second or subsequent conviction whether under the same or any other clause of this section to five hundred rupees.

Penalty for placing carcass of infective animal in river, etc.

28. Whoever places or causes or permits to be placed in any river, lake, canal or other water or in the sea within such distance from the shore, as may be prescribed the carcass or any part of the carcass of any animal which at the time of its death was infected or which was destroyed on account of its being infective or suspected to be infective, in contravention of the provisions of section 22 shall, on conviction, be punished, in the case of a first conviction with imprisonment for a term which may extend to six months or with fine which may extend to one hundred rupees or with both, and in the case of a subsequent conviction with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Penalty for vexatious entry, inspection and seizure.

29. (*1*) Whoever, being an Inspector or a Veterinary Surgeon, appointed under this Act, vexatiously and unnecessarily enters or inspects any land, building or other place or any vessel or vehicle or seizes or detains any animal shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

(*2*) No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

Officers bound to assist Inspectors and Veterinary Surgeons.

30. All village officers and all officers of the departments of revenue, agriculture and veterinary shall be bound—

(*a*) to give immediate information to the Veterinary Surgeon and Inspector having jurisdiction in the area regarding the prevalence of a scheduled disease among animals in the area,

(*b*) to take all necessary measures to prevent the spread of disease, and

(*c*) to assist the Veterinary Surgeon and Inspector to carry out the provisions of this Act.

Institution of proceedings.

31. No Magistrate shall take cognizance of any offence punishable under this Act except upon the complaint of a Veterinary Surgeon.

Jurisdiction of Magistrate.

32. No Magistrate, other than a Presidency Magistrate, a Magistrate of the First Class or a Magistrate of the Second Class specially empowered in this behalf by the Provincial Government shall try any offence punishable under this Act.

Bar of claim to compensation.

33. No person shall except as provided for in section 10 be entitled to any compensation on account of the destruction of any animal or thing under provisions of this Act or of any loss, injury or inconvenience caused to him by reason of anything lawfully done under this Act.

Officers to act subject to orders of Government.

34. All officers shall exercise the powers and perform the duties conferred and imposed on them by or under this Act in accordance with such orders, not inconsistent with the provisions of this Act, as the Provincial Government may from time to time make.

Protection for action taken under this Act.

35. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made under this Act.

Rules.

36. (*1*) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following matters, namely: —

(*i*) the manner of marking animals under sub-section (*2*), the period of detention under sub-section (*3*), the amount of fee for the vaccination and marking of animals under sub-section (*4*), and the form of permit under sub-section (*5*), of section 7 ;

(*ii*) the test to which an animal may be submitted under sub-section (*1*), and the manner in which an animal may be dealt with under sub-section (*2*), of section section 9 ;

(*iii*) the manner in which compensation shall be determined under section 10 ;

(*iv*) the authority to be prescribed for the purposes of sections 11, 12 and 13 ;

(*v*) the periods at which and the manner in which the vessels and vehicles shall be cleansed and disinfected under section 16 ;

(*vi*) for disinfecting land, building or other place or vessel or vehicle under section 17 ;

(*vii*) the making of post-mortem examinations under section 18 ;

(*viii*) the distance from the shore within which carcasses shall not be placed under section 22 ;

(*ix*) for regulating the powers of an Inspector under section 24.

(*3*) In making a rule under sub-section (*1*) or sub-section (*2*), the Provincial Government may provide that a breach thereof shall be punishable with fine which may extentd in the case of a first conviction to Rs. 50 and in the case of a second or subsequent conviction to Rs. 100.

(*4*) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette*.

SCHEDULE.

1. Rinderpest or cattle plague.
2. Foot and Mouth Disease.
3. Hoemorrhagic Septicaemia.
4. Blackquarter.
5. Anthrax.
6. Tuberculosis.
7. Johne's Disease.
8. Rabies.

MO-II Bk H 957—83*a*

BOMBAY ACT No. LX OF 1948.[1]

[THE CODE OF CIVIL PROCEDURE (BOMBAY AMENDMENT) ACT, 1948.]

[*30th November 1948.*]

An Act to amend the Code of Civil Procedure, 1908, in its application to the Province of Bombay.

V of 1908. WHEREAS it is expedient to amend the Code of Civil Procedure, 1908, in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Code of Civil Procedure (Bombay Amendment) Act, 1948.

Amendment of section 60 of Act V of 1908. **2.** In sub-section (*1*) of section 60 of the Code of Civil Procedure, 1908,—

V of 1908. (*a*) after clause (*g*) of the proviso, the following new clause shall be inserted, namely :—

"(*gg*) stipends and gratuities allowed to pensioners of a local authority;" and

(*b*) in Explanation *1*, after the brackets and letter "(*g*)" the brackets and letters "(*gg*)" shall be inserted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 441.

THE PRESS AND REGISTRATION OF BOOKS (BOMBAY AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 9 of Act XXV of 1867.
3. Amendment of section 10 of Act XXV of 1867.
4. Amendment of section 16 of Act XXV of 1867.

BOMBAY ACT No. LXI OF 1948.[1]

[THE PRESS AND REGISTRATION OF BOOKS (BOMBAY AMENDMENT) ACT, 1948.]

[*3rd December 1948.*]

An Act to amend the Press and Registration of Books Act, 1867, in its application to the Province of Bombay.

XXV of 1867. WHEREAS it is expedient to amend the Press and Registration of Books Act, 1867, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Press and Registration of Books (Bombay Amendment) Act, 1948.

Amendment of section 9 of Act XXV of 1867. XXV of 1867. **2.** In section 9 of the Press and Registration of Books Act, 1867 (hereinafter called the said Act),—

(*a*) to the marginal note, the words " and to notified libraries " shall be added; and

(*b*) after the first paragraph, the following new paragraph shall be inserted, namely :—

" Such number of copies of the book not exceeding five shall also be delivered by the printer, free of expense, to such public libraries as the Provincial Government may, by notification in the *Official Gazette*, from time to time specify, within one calendar month after the day on which any such book shall first be delivered out of the press."

Amendment of section 10 of Act XXV of 1867. **3.** In section 10 of the said Act, after the word " officer " the words " or the person in charge of the library, as the case may be, " shall be inserted.

Amendment of section 16 of Act XXV of 1867. **4.** In section 16 of the said Act,—

(*a*) after the words " in this behalf " the words " or on the application of the person in charge of the library to whom a copy of the book should have been delivered, " shall be inserted; and

(*b*) for the word " second " the word " third " shall be substituted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 426.

THE INDIAN FOREST (BOMBAY AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 28 of Act XVI of 1927.
3. Insertion of new section 34 A in, and amendment of section 35 of, Act XVI of 1927.
4. Amendment of section 36 of Act XVI of 1927
5. Amendment of section 37 of Act XVI of 1927.

BOMBAY ACT No. LXII OF 1948.[1]

[THE INDIAN FOREST (BOMBAY AMENDMENT) ACT, 1948.]

[*4th December 1948.*]

An Act to amend the Indian Forest Act, 1927, in its application to the Province of Bombay.

XVI of 1927. WHEREAS it is expedient to amend the Indian Forest Act, 1927, in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Forest (Bombay Amendment) Act, 1948. Short title.

XVI of 1927. 2. In section 28 of the Indian Forest Act. 1927 (hereinafter called the said Act),— Amendment of section 28 of Act XVI of 1927.

(*i*) in sub-section (*1*), after the words "reserved forest" the words "or called a protected forest" shall be inserted; and

(*ii*) in sub-section (*3*),—

(*a*) after the word "reserved" the words "or protected" shall be inserted; and

(*b*) after the words "village forests" the words "according as the forests assigned are reserved or protected forests" shall be inserted.

3. (*1*) For sub-section (*1*) of section 35 of the said Act, the following shall be substituted, namely:— Insertion of new section 34A in, and amendment of section 35 of, Act XVI of 1927.

"34A. For the purposes of this Chapter 'forest' includes any land containing trees and shrubs, pasture lands and any other land whatsoever which the Provincial Government may, by notification in the *Official Gazette*, declare to be a forest. Interpretation.

35. (*1*) The Provincial Government may, by notification in the *Official Gazette*,—

(*i*) regulate or prohibit in any forest—

(*a*) the breaking up or clearing of the land for cultivation;

(*b*) the pasturing of cattle;

(*c*) the firing or clearing of the vegetation;

(*d*) the girdling, tapping or burning of any tree or the stripping off the bark or leaves from any tree;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 385.

(*e*) The lopping and pollarding of trees;

(*f*) the cutting, sawing, conversion and removal of trees and timber; or

(*g*) the quarrying of stone or the burning of lime or charcoal or the collection or removal of any forest produce or its subjection to any manufacturing process;

(*ii*) regulate in any forest the regeneration of forests and their protection from fire;

when such regulation or prohibition appears necessary for any of the following purposes:—

(*a*) for the conservation of trees and forests;

(*b*) for the preservation and improvement of soil or the reclamation of saline or water-logged land, the prevention of land-slips or of the formation of ravines and torrents, or the protection of land against erosion, or the deposit thereon of sand, stones or gravel;

(*c*) for the improvement of grazing;

(*d*) for the maintenance of a water supply in springs, rivers and tanks;

(*e*) for the maintenance, increase and distribution of the supply of fodder, leaf manure, timber or fuel;

(*f*) for the maintenance of reservoirs or irrigation works and hydro-electric works;

(*g*) for protection against storms, winds, rolling stones, floods and drought;

(*h*) for the protection of roads, bridges, railways and other lines of communication; and

(*i*) for the preservation of the public health."

(*2*) In sub-section (*2*) of section 35 of the said Act for the words "in or upon any forest or wasteland" the words "in any forest" shall be substituted.

(*3*) In sub-section (*3*) of section 35 of the said Act the words "or land" shall be deleted.

Amendment of section 36 of Act XVI of 1927.

4. In section 36 of the said Act—

(*i*) the words "or land" wherever they occur shall be deleted;

(*ii*) in sub-section (*1*), after the word "reserved" the words "or protected" shall be inserted.

Amendment of section 37 of Act XVI of 1927.

5. In section 37 of the said Act—

(*i*) in sub-section (*1*) the words "or land" shall be deleted;

(*ii*) sub-section (*2*) shall be deleted.

THE BOMBAY TENANCY AND AGRICULTURAL LANDS ACT, 1948.

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THE SCHEDULE.

BOMBAY ACT No. LXVII OF 1948.[1]

[THE BOMBAY TENANCY AND AGRICULTURAL LANDS ACT, 1948.]

[*28th December 1948*]

Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 12 of 1951.
" " " 34 of 1951.
" " " 45 of 1951.
" " " 33 of 1952.
" " " 60 of 1953.

An Act to amend the law relating to tenancies of agricultural lands and to make certain other provisions in regard to those lands.

WHEREAS it is necessary to amend the law which governs the relations of landlords and tenants of agricultural lands;

AND WHEREAS on account of the neglect of a landholder or disputes between a landholder and his tenants, the cultivation of his estate has seriously suffered, or for the purpose of improving the economic and social conditions of peasants or ensuring the full and efficient use of land for agriculture, it is expedient to assume management of estates held by landholders and to regulate and impose restrictions on the transfer of agricultural lands, dwelling houses, sites and lands appurtenant thereto belonging to or occupied by agriculturists, agricultural labourers and artisans in the Province of Bombay and to make provisions for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Tenancy and Agricultural Lands Act, 1948.

(*2*) It extends to the whole of the [2][State] of Bombay.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Agriculture" includes horticulture, the raising of crops, grass or garden produce, dairy farming, poultry farming, stock breeding and grazing, but does not include cutting of wood only;

(*2*) "Agriculturist" means a person who cultivates land personally;

[3][(*2A*) "Collector" includes an Assistant or Deputy Collector performing the duties and exercising the powers of the Collector under the Bombay Land Revenue Code, 1879;]

Bom. V of 1879.

(*3*) "Co-operative Society" means a society registered under the provisions of the Bombay Co-operative Societies Act, 1925, or a society deemed to have been registered under the said Act;

Bom. VII of 1925.

(*4*) "Co-operative Farming Society" means a society registered as such under the Bombay Co-operative Societies Act, 1925;

Bom. VII of 1925.

(*5*) "To cultivate" means to carry on any agricultural operation;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 295.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] This clause was inserted by Bom. 12 of 1951, s. 2.

(*6*) "To cultivate personally" means to cultivate on one's own account—

(*i*) by one's own labour, or

(*ii*) by the labour of any member of one's family, or

(*iii*) by servants on wages payable in cash or kind but not in crop share or by hired labour under one's personal supervision or the personal supervision of any member of one's family.

Explanation I.—A tenant who is a widow or a minor or is subject to any physical or mental disability shall be deemed to cultivate the land personally if it is cultivated by her or his servants or by hired labour;

Explanation II.—In the case of an undivided Hindu family, the land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family;

(*7*) "Improvement" means with reference to any land, any work which adds to the value of the land and which is suitable thereto as also consistent with the purpose for which it is held; and includes—

(*a*) the construction of tanks, wells, water channels, embankments and other works for storage, supply or distribution of water for agricultural purposes;

(*b*) the construction of works for the drainage of land or for the protection of land from floods or from erosion or other damage from water;

(*c*) the reclaiming, clearing, enclosing, levelling or terracing of land;

(*d*) the erection of buildings on the land, required for the convenient or profitable use of such land for agricultural purposes; and

(*e*) the renewal or reconstruction of any of the foregoing works or alterations therein or additions thereto as are not of the nature of ordinary repairs; but does not include such clearances, embankments, levellings, enclosures, temporary wells, water channels and other works as are commonly made by the tenants, in the ordinary course of agriculture;

(*8*) "Land" means land which is used for agricultural purposes, and includes—

(*a*) the sites of farm buildings appurtenant to land used for agricultural purposes, and

(*b*) the sites of dwelling houses occupied by agriculturists, agricultural labourers or artisans and land appurtenant to such dwelling houses;

(*9*) "Landholder" means a zamindar, jagirdar, saranjamdar, inamdar, talukdar, malik or a khot or any person not hereinbefore specified who is a holder of land or who is interested in land, and whom the [1][State] Government has declared on account of the extent and value of the land or his interests therein to be a land-holder for the purposes of this Act;

(*10*) "Mamlatdar" includes a Mahalkari and any other officer whom the [1][State] Government may appoint to perform the duties of a Mamlatdar under this Act;

(*11*) "Person" includes an undivided Hindu family;

(*12*) "Prescribed" means prescribed by rules made under this Act;

(*13*) "Profits of Agriculture" in respect of any land means the surplus remaining with the cultivator after the expenses of cultivation including the wages of the cultivator working on the land are deducted from the gross produce;

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*14*) "Protected tenant" means a person who is recognised to be a protected tenant under section 31;

(*15*) "Reasonable rent" means the rent determined under section 12;

(*16*) "Rent" means any consideration, in money or kind or both, paid or payable by a tenant on account of the use or occupation of the land held by him but shall not include the rendering of any personal service or labour;

(*17*) "Tenancy" means the relationship of landlord and tenant;

(*18*) "Tenant" means an agriculturist who holds land on lease and includes a person who is deemed to be tenant under the provisions of this Act. The word "landlord" shall be construed accordingly;

(*19*) "Tribunal" means the Agricultural Lands Tribunal constituted under section 67;

(*20*) "Year" means the year ending on the 31st of March or on such date as the [1][State] Government may, by a notification, appoint for any locality;

Bom. V of 1879. IV of 1882. (*21*) Words and expressions used in this Act but not defined shall have the meaning assigned to them in the Bombay Land Revenue Code, 1879, and the Transfer of Property Act, 1882, as the case may be.

CHAPTER II.

General Provisions regarding Tenancies.

IV of 1882. **3.** The provisions of Chapter V of the Transfer of Property Act, 1882, shall, in so far as they are not inconsistent with the provisions of this Act, apply to the tenancies and leases of lands to which this Act applies. Application of Chapter V of Transfer of Property Act.

4. A person lawfully cultivating any land belonging to another person shall be deemed to be a tenant if such land is not cultivated personally by the owner and if such person is not— Persons to be deemed tenants.

(*a*) a member of the owner's family, or

(*b*) a servant on wages payable in cash or kind but not in crop share or a hired labourer cultivating the land under the personal supervision of the owner or any member of the owner's family, or

(*c*) a mortgagee in possession.

Explanation.—A person shall not be deemed to be a tenant under this section if such person has been on an application made by the owner of the land as provided under section 2-A of the Bombay Tenancy Act, 1939, declared by a competent authority not to be a tenant.

Bom. XXIX of 1939.

[2][**5.** (*1*) No tenancy of any land shall be for a period of less than ten years: Period of tenancy.

Provided that at the end of the said period and thereafter at the end of each period of ten years in succession, the tenancy shall, subject to the provisions of sub-sections (*2*) and (*3*), be deemed to be renewed for a further period of ten years on the same terms and conditions notwithstanding any agreement to the contrary.

(*2*) The landlord may, by giving the tenant one year's notice in writing before the end of each of the periods referred to in sub-section (*1*), terminate the tenancy, with effect from the thirty-first day of March in the last year of each of the said period, if he *bona fide* requires the land for any of the purposes specified in sub-section (*1*) of section 34, but subject to the provisions of sub-sections (*2*) and (*2A*) of the said section, as if such tenant was a protected tenant.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] Section 5 was substituted for the original by Bom. 33 of 1952, s. 2.

(*3*) Notwithstanding anything contained in sub-section (*1*)—

(*a*) every tenancy shall, subject to the provisions of sections 24 and 25, be liable to be terminated at any time on any of the grounds mentioned in section 14 ; and

(*b*) a tenant may terminate the tenancy at any time by surrendering his interest as a tenant in favour of the landlord :

Provided that such surrender shall be in writing and shall be verified before the Mamlatdar in the prescribed manner.]

Maximum rent.

6. (*1*) Notwithstanding any agreement, usage, decree or order of a Court or any law, the maximum rent payable by a tenant for the lease of any land shall not, in the case of an irrigated land, exceed one-fourth and in the case of any other land exceed one-third of the crop of such land or its value as determined in the prescribed manner.

[1][(*2*) The [2][State] Government may, by notification in the *Official Gazette* fix a lower rate of the maximum rent payable by the tenants of lands situate in any particular area or may fix such rate on any other suitable basis as it thinks fit.

(*3*) Where a lower rate of the maximum rent is fixed under sub-section (*2*), the landlord shall be entitled to reduce, in proportion to the rate so lowered, any contribution which he is liable to make towards the cost of cultivation of the land under any agreement, usage, decree or order of a court or any law.]

Rent.

7. The rent payable by a tenant shall, subject to the maximum rate fixed, under section 6 be the rent agreed upon between such tenant and his landlord or in the absence of any such agreement the rent payable according to the usage of the locality or if there is no such agreement or usage, or where there is a dispute as regards the reasonableness of the rent payable according to such agreement or usage, the reasonable rent.

Commutation of crop-share rent into cash.

8. (*1*) The [2][State] Government may, from time to time, by notification in the *Official Gazette* declare that rents payable wholly or partly as a crop share in any area to which the notification applies shall, with effect from a date specified in the notification, which shall not be earlier than six months from the date of the notification, be commuted into cash rent.

(*2*) The [2][State] Government may also by notification in the *Official Gazette* in respect of any specified area fix the rate of commutation. If no rate of commutation has been so fixed the amount of commutation shall be determined by the Mamlatdar in the manner prescribed. The amount so determined shall not exceed the rent at the maximum rate fixed under section 6 and shall not be altered for a period of five years from the date on which it was determined :

Provided that the Mamlatdar may, during the said period of five years, reduce the rent if on an application made to him by a tenant he is satisfied that on account of deterioration of the land by floods or other causes beyond the control of the tenant the land has been wholly or partially rendered unfit for the purposes of cultivation.

(*3*) Notwithstanding anything contained in any agreement, usage, decree or order of a Court no landlord in any area in respect of which a notification has been issued under sub-section (*1*) shall recover any rent by way of crop-share or in excess of the commuted cash rent after the date specified in such notification under sub-section (*1*).

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[1] This sub-section was added by Bom. 12 of 1951, s. 3.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Prohibition for receiving rent in terms of service or labour.

9. (*1*) Any landlord receiving rent from any tenant in terms of service or labour shall within twelve months from the date of coming into force of this Act apply to the Mamlatdar for commuting such rent into cash. Such application shall be made in such form as may be prescribed.

(*2*) On receipt of an application under sub-section (*1*) the Mamlatdar shall after holding an inquiry by order in writing commute such rent into cash rent.

(*3*) Notwithstanding anything contained in any agreement, usage, decree or order of a Court or any law no landlord shall recover or receive rent in terms of service or labour after a period of twelve months from the date of coming into force of this Act.

Refund of rent recovered in contravention of the provisions of the Act and other penalties.

10. If any landlord recovers rent from any tenant in contravention of the provisions of section 6, 7, 8 or 9, he shall forthwith refund the excess amount recovered to the tenant and shall be liable to pay such compensation to the tenant as may be determined by the Mamlatdar in this behalf and shall also be liable to such penalty as may be prescribed by rules made under this Act.

Abolition of all cesses, etc.

11. Notwithstanding any agreement, usage or law, it shall not be lawful for any landlord to levy any cess, rate, vero, huk or tax or service of any description or denomination whatsoever from any tenant in respect of any land held by him as a tenant other than the rent lawfully due in respect of such land.

Enquiries as regards reasonable rent.

12. (*1*) For the determination of the reasonable rent of any land the tenant or his landlord may apply in writing to the Mamlatdar. Such application shall be in such form as may be prescribed.

(*2*) On receipt of an application under sub-section (*1*) the Mamlatdar shall give notice to the landlord or to the tenant, as the case may be, and after holding an inquiry, shall determine the reasonable rent of the land.

(*3*) In determining the reasonable rent regard shall, subject to the provisions of section 6, be had to the following factors :—

(*a*) the rental values of lands used for similar purposes in the locality ;
(*b*) the profits of agriculture of similar lands in the locality ;
(*c*) the prices of crops and commodities in the locality ;
(*d*) the improvements made in the land by the landlord or tenant ;
(*e*) the assessment payable in respect of the land ; and
(*f*) such other factors as may be prescribed :

Provided that in determining the reasonable rent the Mamlatdar may commute any rent payable wholly or partly as a crop-share into cash rent.

(*4*) A tenant may at any time during the pendency of proceedings under this section deposit with the Mamlatdar or if an appeal has been filed, with the Collector as the case may be, a sum equal to the amount of rent which if no proceedings had been instituted under this section he would have been liable to pay in respect of the land of which the reasonable rent is to be determined. On the completion of proceedings the Mamlatdar or the Collector shall direct that the amount so deposited or such part of it as is equal to the amount determined as reasonable rent under this section shall be paid to the landlord and shall make such other order as may be necessary.

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(*5*) Every order passed by the Mamlatdar under this section if not appealed against, and every order passed by the Collector in appeal shall hold good for a period of five years and shall not be called in question during that period :

Provided that the Mamlatdar or the Collector, as the case may be, may, during the said period of five years—

(*i*) reduce the rent if on an application made to him by a tenant the Mamlatdar or the Collector, as the case may be, is satisfied that

(*a*) on account of deterioration of the land by floods or other cause beyond the control of the tenant the land has been wholly or partially rendered unfit for the purposes of cultivation, or

(*b*) the tenant has incurred any expenditure on account of improvements made on the land. or

(*ii*) enhance the rent, if on an application made to him by a landlord the Mamlatdar or the Collector, as the case may be, is satisfied that on account of any improvement made in the land by or at the expense of the landlord the produce of the land is increased.

Suspensions or remissions of rent.

13. (*1*) Notwithstanding anything contained in section 84A of the Bombay Land Revenue Code, 1879, whenever from any cause the payment of the whole land revenue payable to Government by a landlord in respect of any land is suspended or remitted, the landlord shall suspend or remit, as the case may be, the payment to him of the rent of such land by his tenant. If in the case of such land the land revenue is partially suspended or remitted, the landlord shall suspend or remit the rent payable by the tenant of such land in the same proportion. Bom. V of 1879.

(*2*) If no land revenue is payable to Government in respect of such land and if from any cause, the payment of the whole or any part of the land revenue payable to Government in respect of any other land in the neighbourhood of such land has been suspended or remitted, the Collector shall, subject to the general or special orders of Government, in the manner provided in sub-section (*1*) suspend or remit, as the case may be, the payment to the landlord of the rent or part of it due in respect of such land.

(*3*) No application for assistance under sections 86 and 87 of the Bombay Land Revenue Code, 1879, shall be entertained, no suit shall lie and no decree of a Civil Court shall be executed for recovery by a landlord of any rent, the payment of which has been remitted, or during the period for which the payment of such rent has been suspended under this section. The period during which the payment of rent is suspended under this section shall be excluded in computing the period of limitation prescribed for any suit or proceeding for the recovery of such rent. Bom. V of 1879.

(*4*) Notwithstanding anything contained in sections 86 and 87 of the Bombay Land Revenue Code, 1879, the Collector shall, in passing an order under sub-section (*2*) of section 87 of the said Code, for rendering assistance to the landlord, allow to the tenant a set-off for the sum, if any, paid by such tenant to the landlord in excess of the amount of rent due from him after deducting the amount required to be remitted under sub-section (*1*) or sub-section (*2*) of this section or under section 84A of the said Code. The set-off under this sub-section shall be allowed only in respect of the sums paid by such tenant to such landlord during a period of three years immediately preceding the date of the application made under section 86 of the said Code. Bom. V of 1879.

(*5*) If any landlord fails to suspend or remit the payment of rent as provided in this section, he shall be liable to refund to the tenant the amount recovered by him in contravention of this section. The tenant may apply to the Mamlatdar for the recovery of the amount and the Mamlatdar may after making an inquiry make an order for the refund.

14. (*1*) Notwithstanding any agreement, usage, decree or order of a Court of law, the tenancy of any land held by a tenant shall not be terminated unless such tenant— **Termination of tenancy.**

(*a*) (*i*) has failed to pay in any year, within fifteen days from the day fixed for the payment of the last instalment of land revenue in accordance with the rules made under the Bombay Land Revenue Code, 1879, for that year, the rent of such land for that year, or

Bom. V of 1879.

(*ii*) if an application for the determination of reasonable rent is pending before the Mamlatdar or the Collector under section 12, has failed to deposit within fifteen days from the aforesaid date with the Mamlatdar or the Collector, as the case may be, a sum equal to the amount of rent which he would have been liable to pay for that year if no such application had been made, or

(*iii*) in case the reasonable rent determined under section 12 is higher than the sum deposited by him, has failed to pay the balance due from him within two months from the date of the decision of the Mamlatdar or the Collector, as the case may be ;

(*b*) has done any act which is destructive or permanently injurious to the land ;

(*c*) has sub-divided the land [1][in contravention of section 27] ;

(*d*) has sub-let the land or failed to cultivate it personally ; or

(*e*) has used such land for a purpose other than agriculture :

[2][Provided that no tenancy of any land held by a tenant shall be terminated on any of the grounds mentioned in this sub-section, unless the landlord gives three months' notice in writing intimating the tenant his decision to terminate the tenancy and the ground for such termination.]

[3]* * * * * *

(*3*) Notwithstanding anything contained in sub-section (*1*), the tenancy of any land held by a tenant who is a minor or who is subject to physical or mental disability shall not be liable to be terminated under the said sub-section only on the ground that such land has been sub-let on behalf of the said tenant.

15. [*Tenancy deemed to be renewed for ten years if the tenant allowed to hold over.*] *Deleted by Bom. 33 of 1952, s. 4.*

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[1] These words and figures were inserted by Bom. 33 of 1952, s. 3 (*1*).
[2] This proviso was added, *ibid.*
[3] Sub-section (*2*) was deleted, *ibid*, s. 3 (*2*).

Bar to eviction from dwelling house.

16. (*1*) If in any village, a tenant is in occupation of a dwelling house built at the expense of such tenant or his predecessor-in-title on a site belonging to his landlord, such tenant shall not be evicted from such dwelling house (with the materials and the site thereof and the land immediately appurtenant thereto and necessary for its enjoyment) unless—

(*a*) the landlord proves that the dwelling house was not built at the expense of such tenant or his predecessor-in-title; and

(*b*) such tenant makes a default in the payment of rent, if any, which he has been paying for the use and occupation of such site.

(*2*) The provisions of sub-section (*1*) shall not apply to a dwelling house which is situated on any land used for the purposes of agriculture from which he has been evicted under sub-section (*1*) of section 34.

Tenant to be given first option of purchasing site on which he has built a dwelling house.

17. (*1*) If a landlord to whom the site referred to in section 16 belongs intends to sell such site, the tenant at the expense of whom or whose predecessor-in-title, a dwelling house is built thereon shall be given in the manner provided in sub-section (*2*) the first option of purchasing the site at a value determined by the Tribunal.

(*2*) The landlord intending to sell such site shall give notice in writing to the tenant requiring him to state within three months from the date of service of such notice whether he is willing to purchase the site.

(*3*) If within the period of three months so specified the tenant intimates in writing to the landlord that he is willing to purchase the site, the landlord shall make an application to the Tribunal for the determination of the value of the site. On receipt of such application the Tribunal after giving notice to the tenant and after holding an inquiry shall determine the value of the site. The Tribunal may, by an order in writing, require the tenant to deposit the amount of value of such site within three months from the date of such order. On the deposit of such amount the site shall be deemed to have been transferred to the tenant and the amount deposited shall be paid to the landlord. The Tribunal shall on payment of the prescribed fees grant a certificate in the prescribed form to such tenant specifying therein the site so transferred and the name of such tenant.

(*4*) If the tenant fails to intimate his willingness to purchase the site within the time specified in sub-section (*2*) or fails to deposit the amount of the value within the time specified in sub-section (*3*) the tenant shall be deemed to have relinquished his right of first option to purchase the site and the landlord shall then be entitled to evict the tenant either on payment of such compensation for the value of the structure of such dwelling house as may be determined by the Tribunal or allow the tenant at his option to remove the materials of the structure.

(*5*) Any sale of a site held in contravention of this section shall be null and void.

Dwelling houses of agricultural labourers and artisans.

18. The [1][State] Government may, by notification in the *Official Gazette* direct that the provisions of sections 16 and 17 shall apply to the dwelling houses, and the sites thereof occupied by agricultural labourers or artisans in any particular area specified in the notification

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Tenant's rights to trees planted by him.

19. If a tenant has planted or plants any trees on any land leased to him, he shall be entitled to the produce and the wood of such trees during the continuance of his tenancy and shall on the termination of his tenancy be entitled to such compensation for the said trees as may be determined by the Mamlatdar :

Provided that a tenant shall not be entitled to compensation under this section if the tenancy is terminated by surrender on the part of the tenant :

Provided further that the landlord shall during the continuance of the tenancy, be entitled to the rent of the land as if the trees had not been planted.

Right to produce of naturally growing trees.

20. (*1*) A tenant shall during the continuance of his tenancy be entitled to two-thirds of the total produce of trees naturally growing on the land, the landlord being entitled to one-third of the produce of such trees.

(*2*) If there is any dispute regarding the right to the produce of such trees or the apportionment of such produce as provided under sub-section (*1*) the tenant or the landlord may apply to the Mamlatdar. Such application shall be made in such form as may be prescribed.

(*3*) On receipt of such application, the Mamlatdar shall, after holding an inquiry, pass such order thereon as he deems fit.

Sub-letting of land by or on behalf of person in military, naval or air service of the [1][Union] not to terminate tenancy.

21. Notwithstanding anything contained in this Act or any other law for the time being in force or any agreement or usage, the tenancy of any land leased to and held by a person in the military, naval or air service of the [1][Union] shall not be liable to be terminated on the ground only that the land has been sub-let by or on behalf of the said person.

Tenants responsible for maintenance of boundary marks.

Bom. V of 1879.

22. Notwithstanding anything contained in section 123 of the Bombay Land Revenue Code, 1879, the responsibility for the maintenance and good repair of the boundary marks of the land held by a tenant and any charges reasonably incurred on account of service by revenue officers in case of alteration, removal or disrepair of such boundary marks shall be upon the tenant.

Repairs of protective bunds.

23. (*1*) Notwithstanding any agreement, usage or custom to the contrary, if it appears to the [2][State] Government that the construction, maintenance or repairs of any bunds protecting any land held by a tenant is neglected due to a dispute between the landlord and the tenant or for any other reason, it may by an order in writing direct that the construction, maintenance or repairs shall be carried out by such persons as may be specified in the order and the costs thereof shall be recoverable from the person in actual possession of the land as arrears of land revenue.

(*2*) The person from whom the costs are recovered under sub-section (*1*) shall be entitled to recover the same or any part thereof from any person who under any agreement, usage or custom is wholly or partially liable to construct, maintain or repair the bunds.

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[1] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Provincial", *ibid.*

(*3*) Notwithstanding anything contained in sub-section (*1*), it shall be lawful for the tenant of any land, the protective bunds of which are neglected, to construct, maintain or repair such bunds at his costs and the costs so incurred by him shall on application made by him to the Mamlatdar be recoverable by him from the landlord according to his liability under the agreement, usage or custom. The costs of the proceedings of the tenant's application shall also be recoverable from the landlord in case the landlord is held wholly or partially liable to pay the costs incurred by the tenant for construction, maintenance or repairs to the bunds.

Relief against termination of tenancy in certain cases.

24. Where any tenancy of any land held by any tenant is terminated on the ground that the tenant has done any act which is destructive or permanently injurious to the land, no proceeding for ejectment against such tenant shall lie unless and until the landlord has served on the tenant a notice in writing specifying the act of destruction or injury complained of and the tenant fails within a period of one year from the service of notice to restore the land to the condition in which it was before such destruction or injury.

Relief against termination of tenancyf or non-payment of rent.

25. [1][(*1*)] Where any tenancy of any land held by any tenant is terminated for non-payment of rent and the landlord files any proceeding to eject the tenant, the Mamlatdar shall call upon the tenant to tender to the landlord the rent in arrears together with the cost of the proceeding, within fifteen days from the date of order, and if the tenant complies with such order, the Mamlatdar shall, in lieu of making an order for ejectment, pass an order directing that the tenancy had not been terminated and thereupon the tenant shall hold the land as if the tenancy had not been terminated :

[2][Provided that if the Mamlatdar is satisfied that in consequence of total or partial failure of crops or similar calamity the tenant has been unable to pay the rent due, the Mamlatdar may, for reasons to be recorded in writing, direct that the arrears of rent together with the costs of the proceedings if awarded, shall be paid within one year from the date of the order and that if before the expiry of the said period, the tenant fails to pay the said arrears of rent and costs, the tenancy shall be deemed to be terminated and the tenant shall be liable to be evicted.]

[3][(*2*) Nothing in this section] shall apply to any tenant whose tenancy is terminated for non-payment of rent if he has failed for any three years to pay rent within the period specified in section 14.

Tenancy to be in abeyance during usufructuary mortgage in favour of tenant.

[4][**25A.** If any land is mortgaged by a landlord by way of a usufructuary mortgage to a tenant cultivating such land, the tenancy of such land shall be in abeyance during the period the mortgage subsists. After the expiry of the said period it shall, notwithstanding any other law for the time being in force, be lawful to the tenant to continue to hold the land on the terms and conditions on which he held it before the mortgage was created.]

Receipts for rent.

26. (*1*) In the absence of an express intimation in writing to the contrary by a tenant, every payment made by a tenant to the landlord shall be presumed to be a payment on account of rent due by such tenant for the year in which the payment is made.

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[1] Section 25 was renumbered as sub-section (*1*) of the said section by Bom. 33 of 1952, s. 5.
[2] This proviso was added, *ibid*, s. 5 (*1*).
[3] These brackets, figure and words were substituted for the words " Provided that nothing in this section ", *ibid*, s. 5 (*2*).
[4] Section 25A was inserted by Bom. 34 of 1951. s. 2.

(*2*) Every landlord shall give a written receipt for the amount of rent at the time when such amount is received by him in respect of any land in such form and in such manner as may be prescribed.

Sub-division, sub-letting and assignment prohibited.

27. (*1*) No sub-division or sub-letting of the land or assignment of any interest held by a tenant shall be valid. Such sub-division, sub-letting or assignment shall make the tenancy liable to termination:

Provided that nothing in this sub-section shall prejudicially affect the rights of a permanent tenant or any tenant the duration of whose tenancy is presumed to be co-extensive with the duration of the tenure of the landlord under section 83 of the Bombay Land Revenue Code, 1879:

Bom. V of 1879.

[1][Provided further that if the tenant dies, leaving sons or sons of predeceased sons more than one in number it shall be lawful for such sons and sons of predeceased sons (hereinafter called "sharers"), notwithstanding anything contained in section 40, to partition and sub-divide the land leased subject to the following conditions:—

(*a*) Each sharer shall hold his share as a separate tenant.

(*b*) The rent payable in respect of the land leased shall be apportioned among sharers, as the case may be, according to the share allotted to them.

(*c*) The area allotted to each sharer shall not be less than the unit which the State Government may, by general or special order, specify in this behalf having regard to the production capacity and other circumstances relevant to the full and efficient use of the land for agriculture.

(*d*) If any question arises regarding the apportionment of the rent payable by the sharers it shall be decided by the Mamlatdar whose decision shall be final].

(*2*) Notwithstanding anything contained in sub-section (*1*), it shall be lawful for a tenant to be a member of a co-operative farming society and as such member to sub-let, assign, mortgage or to create, a charge on his interest in the land in favour of such society or in consideration of a loan advanced by any person authorised under section 54 of the Bombay Agricultural Debtors Relief Act, 1947.

Bom. XXVIII of 1947.

[2][(*3*) Notwithstanding anything contained in sub-section (*1*), it shall also be lawful for a tenant to mortgage, or create a charge on, his interest in the land in favour of the State Government in consideration of a loan advanced to him by the State Government under the Land Improvement Loans Act, 1883, the Agriculturists' Loans Act, 1884, or the Bombay Non-Agriculturists' Loans Act, 1928, and without prejudice to any other remedy open to the State Government in the event of his making default in payment of such loan in accordance with the terms on which such loan was granted, it shall be lawful for the State Government to cause his interest in the land to be attached and sold and the proceeds to be applied in payment of such loan.]

XIX of 1883. XII of 1884. Bom. III of 1928.

Bar to attachment, seizure or sale by process of Court.

28. Save as expressly provided in this Act or as provided in the Bombay Co-operative Societies Act, 1925, or the Bombay Agricultural Debtors Relief Act, 1947, for the recovery of loans permitted under section 27, any interest in the land held by him as a tenant shall not be liable to be attached, seized or sold in execution of a decree or order of a Civil Court.

Bom. VII of 1925. Bom. XXVIII of 1947.

[1] This proviso was added by Bom. 33 of 1952, s. 6 (*1*).
[2] Sub-section (*3*) was added, *ibid*, s. 6 (*2*).

Procedure of taking possession.

*29. (*1*) A tenant or an agricultural labourer or artisan entitled to possession of any land or dwelling house under any of the provisions of this Act may apply in writing for such possession to the Mamlatdar. The application shall be made in such form as may be prescribed [1][and within a period of two years from the date on which the right to obtain possession of the land or dwelling house is deemed to have accrued to the tenant, agricultural labourer or artisan, as the case may be].

(*2*) No landlord shall obtain possession of any land or dwelling house held by a tenant except under an order of the Mamlatdar. For obtaining such order he shall make an application in the prescribed form [2][and within a period of two years from the date on which the right to obtain possession of the land or dwelling house, as the case may be, is deemed to have accrued to him].

(*3*) On receipt of application under sub-section (*1*) or (*2*) the Mamlatdar shall, after holding an inquiry, pass such order thereon as he deems fit.

(*4*) Any person taking possession of any land or dwelling house except in accordance with the provisions of sub-section (*1*) or (*2*), as the case may be, shall be liable to forfeiture of crops, if any, grown in the land in addition to payment of costs as may be directed by the Mamlatdar or by the Collector and also to the penalty prescribed in section 81.

Act not to affect rights or privileges of tenant under any other law.

30. Save as otherwise provided in [3][sub-section (*3*) of section 6 and] sub-section (*1*) of section 27, no other provision contained in this Act shall be construed to limit or abridge the rights or privileges of any tenant under any usage or law for the time being in force or arising out of any contract, grant, decree or order of a court or otherwise howsoever.

CHAPTER III.

PROTECTED TENANTS, THEIR SPECIAL RIGHTS AND PRIVILEGES.

Protected tenants.

31. For the purposes of this Act, a person shall be recognised to be a protected tenant if such person has been deemed to be a protected tenant under section 3, 3A or 4 of the Bombay Tenancy Act, 1939. Bom. XXIX of 1939.

Right of protected tenant to purchase land.

32. (*1*) Notwithstanding anything contrary in any law, usage or contract but subject to the provisions of sub-section (*6*), a protected tenant shall at any time be entitled to purchase from the landlord the land held by him as a protected tenant.

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* Section 4 of Bom. XLV of 1951 reads as under:—

Pending applications, appeals, revision applications not to be dismissed if filed within period of two years.

4. If at the date when this Act comes into force an application under section 29 of the said Act is pending before the Mamlatdar or the Tribunal, or an appeal or an application for revision arising out of such application is pending before the Collector or the Bombay Revenue Tribunal, as the case may be, on such date, such application, appeal or application for revision shall not be dismissed only on the ground that the said application under section 29 of the said Act was not made within the period of limitation, if it was made within the period prescribed by section 29 of the said Act as amended by this Act.

[1] These words were added by Bom. 45 of 1951, s. 2 (*i*).

[2] These words were added, *ibid*, s. 2 (*ii*).

[3] These words, brackets and figures were inserted by Bom. 12 of 1951, s. 4.

(*2*) For this purpose the protected tenant shall make an offer in writing to the landlord stating the amount of price for which he intends to purchase the land.

(*3*) If the landlord refuses or fails to accept the offer and to execute the sale deed within three months from the date of the offer, the protected tenant may apply to the Tribunal for the determination of the reasonable price of the land.

(*4*) The Tribunal after giving notice to the landlord and to all persons interested in the land, and after making an inquiry, shall [1][subject to the provisions of sub-section (*4A*)] determine the price in accordance with the rules made in this behalf. The protected tenant shall thereupon deposit the amount of the price so determined with the Tribunal within the prescribed period. [2][The protected tenant shall deposit the amount of the price with the Tribunal—

(*a*) either in a lump sum, or

(*b*) in such instalments not exceeding ten and at such intervals during a period not exceeding fifteen years and on or before such dates as may be fixed by the Tribunal in each case. The Tribunal shall thereupon cause a written notice of the deposit to be served on the landlord.]

[3][(*4A*) Notwithstanding anything contained in sub-section (*4*), the State Government may, by general or special order, determine the rate of the amount of the maximum price for the purchase of any kind of land by tenants who belong to classes declared by the State Government as socially and educationally backward classes or who are the members of the Scheduled Castes or the Scheduled Tribes. In determining such rate, the State Government shall take into consideration the rent payable for the land and other factors specified in sub-section (*4*) of section 66.]

(*5*) [4][On the deposit of the entire amount of the price] the Tribunal shall issue a certificate in the prescribed form to the protected tenant declaring him to be the purchaser of the land. Such certificate shall be conclusive evidence of the sale as against the landlord and all persons interested therein. [5][The Tribunal shall also direct that the entire amount of the price deposited shall be paid to the landlord. If the protected tenant fails to pay the entire amount of the price within the period fixed under sub-section (*4*) the purchase shall not be effective and the amount deposited by the protected tenant shall be refunded to him.]

[6][Provided that until the deposit of the entire amount is made in a lump sum or until the deposit of the last of the instalments is made, the liability of the protected tenant to pay the rent due in respect of the land shall continue and shall not be affected.]

(*6*) The right of a protected tenant under this section to purchase from his landlord the land held by him as a protected tenant shall be subject to all the following conditions specified in clause (*a*) or (*b*), as the case may be, and in clause (*c*) :—

(*a*) if the protected tenant does not hold any arable land, as an owner, the purchase of the land by him shall be limited to the extent of fifty acres of arable land ;

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[1] These words, brackets, figure and letter were inserted by Bom. 33 of 1952, s. 7 (*1*).
[2] This portion was added, *ibid.*
[3] Sub-section (*4A*) was inserted, *ibid.* s. 7 (*2*).
[4] These words were substituted for the words " On such deposit being made ", *ibid*, s. 7 (*3*) (*a*).
[5] This portion was inserted, *ibid.*
[6] This proviso was added, *ibid*, s. 7 (*3*) (*b*).

(*b*) if the protected tenant holds any arable land, as an owner the purchase of the land by him shall be limited to such area as will be sufficient to make up the area of the land owned by him to the extent of fifty acres of arable land; and

(*c*) the total area of the arable land remaining in the ownership of the landlord after the purchase of the land or any portion thereof by the protected tenant is not less than fifty acres:

[1]* * * * * *

(*7*) If any question arises under this section regarding—

(*a*) the priority or any other right in relation to the purchase of the land among the protected tenants *inter se* or between the protected tenant and the landlord, or

(*b*) the kind, extent or location of any particular area of land to be purchased [2][or the amount of the price or any instalment thereof to be deposited];

such question shall be decided by the Tribunal in the prescribed manner.

[3][(*8*) Nothing in section 64 shall affect the right of a protected tenant to purchase under this section the land held by him on lease.].

Right of protected tenants to exchange land.

33. (*1*) Notwithstanding anything contained in this Act or any other law or any agreement or usage, the protected tenants holding lands in the same village as such protected tenants may agree and may make an application to the Mamlatdar in the prescribed form for the exchange of their tenancies in respect of the lands held by them as protected tenants.

(*2*) On receipt of the application, the Mamlatdar after giving notice to the landlords concerned and after making an inquiry may sanction the exchange on such terms and conditions as may be prescribed and may issue certificates in the prescribed form to the applicants.

(*3*) The certificates so issued shall be conclusive of the fact of such exchange against the landlords and all persons interested in the lands exchanged.

(*4*) Each of the two protected tenants shall on exchange hold the land on the same terms and conditions on which it was held by the original tenant immediately before the exchange subject to such modifications as may have been sanctioned by the Mamlatdar.

Landlord's right to determine protected tenancy.

34. (*1*) Notwithstanding anything contained in section 14, a landlord may terminate the tenancy of a protected tenant by giving him one year's notice in writing, stating therein the reasons for such termination, if the landlord *bona fide* requires the land for any of the following purposes, namely :—

(*1*) for cultivating personally, or

(*2*) for any non-agricultural use for his own purpose.

(*2*) Nothing in sub-section (*1*) shall entitle the landlord,—

(*a*) to terminate the tenancy of a protected tenant, if the landlord at the date [4][on which the notice is given or at the date on which the notice expires] has been cultivating personally other land fifty acres or more in area :

Provided that if the land which is being cultivated personally is less than fifty acres, the right of the landlord to terminate the tenancy of the protected

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[1] The proviso was deleted by Bom. 33 of 1952, s. 7 (*4*).
[2] These words were added, *ibid*, s.7 (*5*).
[3] Sub-section (*8*) was inserted, *ibid*, s. 7 (*6*).
[4] These words were substituted for the words " of the notice " by Bom. 12 of 1951, s. 5.

tenant and to take possession of the land leased to him shall be limited to such area as will be sufficient to make up the area of the land which he has been cultivating personally to the extent of fifty acres :

[1]* * * * * * *

(*b*) to terminate the tenancy of a protected tenant, if such tenant has become a member of a co-operative farming society so long as such tenant remains such member ;

[2][or

(*c*) to terminate the tenancy of a protected tenant on the ground that the landlord requires the land for cultivating it personally, unless the income by the cultivation of such land will be the main source of the income of the landlord for his maintenance.]

[3][(*2-A*) If the landlord *bona fide* requires the land for any of the purposes specified in sub-section (*1*) then his right to terminate the tenancy shall be subject to the following conditions, namely :—

(*1*) The land held by the protected tenant on lease stands in the record of rights in the name of the landlord on the first day of January 1952 as the superior holder.

(*2*) If the land held by the landlord is in area equal to the agricultural holding or less, the landlord shall be entitled to terminate the tenancy of the protected tenant in respect of the entire area of such land.

(*3*) If the land held by the landlord is more than the agricultural holding in area, the right of the landlord to terminate the tenancy of the protected tenant shall be limited to an area which shall, after such termination, leave with the tenant half the area of the land leased.

(*4*) The tenancy in respect of the land left with the protected tenant after termination under this section shall not at any time be liable to be terminated on the ground that the landlord *bona fide* requires the said land for any of the purposes specified in sub-section (*1*).

Explanation.—The "agricultural holding" shall mean sixteen acres of jirayat land or four acres of irrigated or paddy or rice land, or lands greater or less in area than the aforesaid areas in the same proportion :

Provided that the State Government may by general or special order direct that the limits of the agricultural holding specified in this section shall for any local area or tract be varied, if the State Government is satisfied that such variation is necessary or expedient in the interest of either the landlord or the tenant or for ensuring the full and efficient use of land for agriculture.]

(*3*) [4][If under sub-section (*2*) or (*2A*)] the tenancy of a protected tenant is terminated of a part of the land leased to him, the rent shall be apportioned in the prescribed manner in proportion to the area of the land left with the protected tenant.

[5][(*4*) Nothing in clause (*a*) of sub-section (*2*) or in sub-section (*2A*) shall authorize the termination of the tenancy in such a manner as will result in contravention of the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, or in making any part of the land leased a fragment within the meaning of the said Act.]

Bom. LXII of 1947.

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[1] The second proviso was deleted by Bom. 33 of 1952, s. 8 (*1*).
[2] This portion was added, *ibid*, s. 8 (*2*).
[3] Sub-section (*2A*) was inserted, *ibid*, s. 8 (*3*).
[4] This portion was substituted for "If under sub-section (*2*)" *ibid*, s. 8 (*4*).
[5] Sub-section (*4*) was added, *ibid*, s. 8 (*5*).

35. [*Branch of undivided Hindu family for the purposes of sections 32 and 34.*] *Deleted by Bom. 33 of 1952, s. 9.*

Power of [2][State] Government to reduce the limit of fifty acres.

36. (*1*) Notwithstanding anything contained in section [1]* * 34, the [2][State] Government may, by notification in the *Official Gazette*, direct that the limits of fifty acres [3][specified in section 34] shall for the purposes of any area specified in the notification be reduced to the limits specified therein.

(*2*) The [2][State] Government may by a like notification direct that the limits of fifty acres [4][specified in the said section] or the reduced limit specified in the notification under sub-section (*1*) shall comprise of such kind or kinds of lands in the area as may be specified in the notification.

Landlord to restore possession if he fails to cultivate within one year.

37. (*1*) If after the landlord takes possession of the land after the termination of the tenancy under section 34, he fails to use it for any of the purposes specified in the notice given under sub-section (*1*) of section 34 within one year from the date on which he took possession or ceases to use it at any time for any of the aforesaid purposes within twelve years from the date on which he took such possession, the landlord shall forthwith restore possession of the land to the tenant whose tenancy was terminated by him, unless he has obtained from the tenant his refusal in writing to accept the tenancy on the same terms and conditions or has offered in writing to give possession of the land to the tenant on the same terms and conditions and the tenant has failed to accept the offer within three months of the receipt thereof.

(*2*) After the tenant has recovered possession under sub-section (*1*) he shall, subject to the provisions of this Act, hold such land on the same terms and conditions on which he held it at the time his tenancy was terminated.

(*3*) If the landlord has failed to restore possession of the land to the tenant as provided in sub-section (*1*) he shall be liable to pay such compensation to the tenant as may be determined by the Mamlatdar for the loss suffered by the tenant on account of eviction.

Circumstances in which landlord shall be deemed to cultivate personally.

38. If a landlord after taking possession of the land after the termination of the tenancy under section 34 dies leaving as his heir a widow or a minor or a person who is subject to mental or physical disability, such heir shall be deemed to cultivate the land personally, if such land cultivated by her or his servants or by hired labour.

Application for recovery of possession by tenant.

39. If at any time the tenant makes an application to the Mamlatdar and satisfies him that the landlord has failed to comply within a reasonable time with the provisions of section 37, the tenant shall be entitled on a direction by the Mamlatdar to obtain immediate possession of the land and to such compensation as may be awarded by the Mamlatdar for any loss caused to the tenant by eviction and by failure on the part of the landlord to restore or give possession of the land to him as required by section 37.

Continuation of tenancy on the death of a protected tenant.

40. If a protected tenant dies, the landlord shall offer to continue the tenancy on the same terms and conditions on which such tenant was holding it at the time of his death to the heir or heirs of the deceased tenant :

Provided that the offer required to be made by the landlord under this section shall be made in writing :

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[1] The figures and word " 32 or " were deleted by Bom. 33 of 1952, s. 10 (*1*).

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] These words and figures were substituted for the words " and two hundred acres specified in either of the said sections " by Bom. 33 of 1952, s. 10 (*1*).

[4] These words were substituted for the words " and two hundred acres specified in the said sections ", *ibid*, s. 10 (*2*).

Provided further that if any heirs of the deceased tenant do not agree to continue the tenancy on the same terms and conditions on which the deceased protected tenant was holding the land, the Collector may select an heir or heirs who is or are willing to continue the tenancy on the same terms and conditions. The decision of the Collector shall be final.

Explanation.—For the purposes of this section, an heir means the lineal male descendants of a tenant or his adopted son and failing both his widow who has not re-married.

Compensation for improvement made by protected tenant.

41. (*1*) A protected tenant who has made an improvement on the land held by him shall if his tenancy is terminated under the provisions of this Act, be entitled to compensation for such improvement. For determining the amount of the compensation the tenant shall apply to the Mamlatdar in the prescribed form.

(*2*) The compensation to which a tenant shall be entitled under sub-section (*1*) shall be the estimated value of such improvement at the time of the termination of his tenancy. In estimating such value regard shall be paid to—

(*a*) the amount by which the value of the land is increased by the improvement ;

(*b*) the present condition of the improvement and the probable duration of its effects ;

(*c*) the labour and capital provided or spent by the tenant for the making of the improvement ; and

(*d*) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement.

Protected tenant's right to erect farm-house.

42. A protected tenant shall be entitled to erect a farm-house on the land held by him as a protected tenant.

Restriction on protected tenant's right of transfer.

43. No land purchased by a protected tenant under section 32 shall be transferred by sale, gift, exchange, lease, mortgage or assignment without the previous sanction of the [1][State] Government.

CHAPTER IV.

MANAGEMENT OF ESTATES HELD BY LANDHOLDERS.

Power to assume management of landholder's estate.

44. Notwithstanding any law for the time being in force, usage or custom or the terms of contract or grant, when the [1][State] Government is satisfied that on account of the neglect of a landholder or disputes between him and his tenants, the cultivation of his estate has seriously suffered, or when it appears to the [1][State] Government that it is necessary [2][for the said purpose or for the purpose of] ensuring the full and efficient use of land for agriculture to assume management of any landholder's estate, a notification announcing such intention shall be published in the *Official Gazette*, and the Collector shall cause notice of the substance of such notification to be given at convenient places in the locality where the estate is situated. Such notification shall be conclusive.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words "for the purpose of improving the economic and social condition of peasants or" by Bom. 33 of 1952, s. 11.

Vesting of estate in management.

45. [1][(*1*) On the publication of the notification under section 44, the estate in respect of which the notification has been published shall, so long as the management continues, vest in the [2][State] Government. Such management shall be deemed to commence from the date on which the notification is published and the [2][State] Government shall appoint a Manager to be in charge of such estate.

[3][(*2*) Notwithstanding the vesting of the estate in the State Government under sub-section (*1*), the tenant holding the lands on lease comprised in the estate shall, save as otherwise provided in this Chapter, continue to have the same rights and shall be subject to the same obligations, as they have or are subject under the preceding Chapters in respect of the lands held by them on lease.]

Effect of declaration of management.

46. On the publication of the notification under section 44, the following consequences shall ensue :—

(*1*) All proceedings then pending in any Civil Court in respect to the debts and liabilities enforceable against the estate shall be stayed; and the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended;

(*2*) So long as the management continues no fresh proceedings, processes, executions or attachments shall be instituted in or issued, enforced or executed by any Civil Court in respect of such debts and liabilities;

(*3*) So long as the management continues the holder of the estate shall be incompetent—

(*a*) to enter into any contract involving the estate in pecuniary liability,

(*b*) to mortgage, charge, lease or alienate the property under management or any part thereof, or

(*c*) to grant valid receipts for the rents and profits arising or accruing therefrom:

Provided that nothing contained in this section shall be deemed to preclude the Manager from letting and the holder from taking the whole or a part of such estate on such terms consistent with this Act as may be agreed upon between the parties;

(*4*) So long as the management continues, no person other than the Manager shall be competent to mortgage, charge, lease or alienate such estate or any part thereof.

Manager's powers.

47. (*1*) The Manager shall during the management of the estate have all the powers which the holder thereof might as such have exercised and shall receive and recover all rents and profits due in respect of the property under management.

(*2*) For the purposes of recovering such rents and profits the Manager shall have, in addition to any powers possessed by the holder, all the powers possessed by the Collector under the law for the time being in force for securing and recovering land revenue due to Government.

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[1] Section 45 was renumbered as sub-section (*1*) of the said section by Bom. 33 of 1952, s. 12.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] Sub-section (*2*) was added by Bom. 33 of 1952, s. 12.

Manager to pay costs of management, etc.

48. (*1*) From the sums received or recovered under section 47, the Manager shall pay—

(*i*) the costs of management including the costs of necessary repairs;

(*ii*) the Government revenue and all debts and liabilities for the time being, due or incurred to the [1][Government] in respect of the property under management;

(*iii*) the rent, if any, due to any superior holder in respect of the said estate;

(*iv*) such periodical allowance as the Collector may from time to time fix for the maintenance and other expenses of the holder and of such members of his family as the Collector directs;

(*v*) the costs of such improvements of the said estate as he thinks necessary and as approved by the Collector.

(*2*) The residue shall be retained by the Manager for the liquidation, in the manner hereinafter provided, of the debts and liabilities other than those mentioned in sub-section (*1*) and also for the repayment, either before or after the liquidation of such debts and liabilities, of any loan received from Government by the Manager under this Act. The balance, if any, shall be paid to the holder.

Notice to claimants.

49. On the publication of the order of management, the Manager shall publish in the *Official Gazette*, a notice calling upon all persons having claims against the estate under management to notify the same in writing to such Manager within two months from the date of the publication. He shall also cause copies of such notice to be exhibited at such several places as he thinks fit.

Claim to contain full particulars.

50. (*1*) Every such claimant shall, along with his claim, present full particulars thereof.

(*2*) Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

(*3*) If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

(*4*) If any document in possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Claim not duly notified to be barred.

51. Every such claim other than the claim of the [1][Government] not informed to the Manager within the time and in the manner required by such notice shall, except as provided hereinafter, be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged:

Provided that when proof is made to the Manager that the claimant was unable to comply with the provisions of section 49, the Manager may receive such claim within the further period of two months from the expiration of the original period of two months.

Determination of debts and liabilities.

52. The Manager shall inquire into the history and merits of every claim received under preceding sections and shall in accordance with the rules to be made under this Act determine the amount of the debts and liabilities, if any, justly due to the several claimants.

[1] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

Power to rank debts and fix interest.

53. If such amount cannot be paid at once, the Manager shall then proceed to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest, if any, to be paid thereon, respectively from the date of the final decision thereon, to the date of the payment and discharge thereof.

Scheme for liquidation.

54. When the total amount of the debts and liabilities including those due and incurred to the [1][Government] has been finally determined, the Manager shall prepare and submit to the Collector a schedule of such debts and liabilities, and a scheme (hereinafter called the liquidation scheme) showing the mode in which it is proposed to pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one of such ways and partly in the other.

Provisions of scheme.

55. Every liquidation scheme shall further provide for the continuance of the payments to be made by the Manager and for the repayment of money, if any, which the Manager proposes to borrow from Government under this Act and may provide for the improvement of the estate under management either from the said income or with the aid of the funds raised as aforesaid or partly in one of such ways and partly in the other.

Effects of sanctioning scheme.

56. When the Collector sanctions the liquidation-scheme, he shall notify the fact of such sanction at such place and in such manner as the [2][State] Government may from time to time by rule direct; and thereupon—

(*i*) all proceedings, processes, executions and attachments stayed or suspended under section 46 shall be for ever barred;

(*ii*) every debt or liability due or owing to any person which was provable before the Manager shall be extinguished, and such person shall be entitled to receive under the liquidation-scheme the amount, if any, finally awarded to him under the preceding sections in respect of such debt or liability.

Power to remove mortgagee in possession.

57. (*1*) If the estate under management or any part thereof be in the possession of a mortgagee or a conditional vendee, the Manager, at any time after the liquidation scheme has been sanctioned as aforesaid, may by an order in writing require such incumbrancer to deliver up possession of the same to him at the end of the then current revenue year.

(*2*) If such incumbrancer refuses or neglects to obey such order, the Manager may without resorting to a Civil Court enter upon the property and summarily evict therefrom the said incumbrancer or any other person obstructing or resisting on his behalf.

(*3*) Nothing in this section shall be held to affect the right of any incumbrancer to receive under the liquidation scheme the amount, if any, awarded to him under this Act.

Power to sell or lease.

58. Subject to the rules made under this Act, the Manager after the liquidation scheme has been sanctioned as aforesaid, shall have power to sell or grant on lease all or any part of the estate under the management:

Provided that the estate or any part thereof shall not be sold or leased for a period exceeding ten years without the previous permission of the Collector:

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[1] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Provincial", *ibid.*

Provided further that the Collector shall not give such permission unless he is satisfied that such sale or lease is necessary for the benefit of the estate [1][or unless such sale is in favour of a protected tenant under section 32.] The decision of the Collector shall be final.

Manager's receipt a discharge.

59. The Manager's receipt for any moneys, rents or profits raised or received by him under this Act shall discharge the person paying the same therefrom or from being concerned to see to the application thereof.

Holder of estate dying.

60. (*1*) If the holder of the estate dies after the publication of the order of management, the management shall continue and proceed in all respects as if the holder were still living.

(*2*) Any person succeeding to the whole or any part of the estate under management shall, while such management continues, be subject in respect of such estate to the disabilities imposed under this Act.

(*3*) No Civil Court shall, during the continuance of the mangement, issue any attachment or other process against any portion of the estate under management for or in respect of any debt or liability incurred by any such person either before or after his said succession.

Termination of management.

61. The [2][State] Government, when it is of opinion that it is not necessary to continue the management of the estate, by order published in the *Official Gazette* direct that the said management shall be terminated. On the termination of the said management the estate shall be delivered into the possession of the holder, or, if he is dead of any person entitled to the said estate together with any balances which may be due to the credit of the said holder. All acts done or purporting to be done by the Manager during the continuance of the management of the estate shall be binding on the holder or to any person to whom the possession of the estate has been delivered.

Manager deemed to be public servant.

XLV of 1860.

62. The Manager appointed under this Chapter shall be deemed to be a public servant under section 21 of the Indian Penal Code.

CHAPTER V.

RESTRICTIONS ON TRANSFERS OF AGRICULTURAL LANDS, MANAGEMENT OF UNCULTIVATED LANDS AND ACQUISITION OF ESTATES AND LAND.

Transfers to non-agriculturists barred.

63. (*1*) Save as provided in this Act,—

(*a*) no sale (including sales in execution of a decree of a Civil Court or for recovery of arrears of land revenue or for sums recoverable as arrears of land revenue), gift, exchange or lease of any land or interest therein, or

(*b*) no mortgage of any land or interest therein, in which the possession of the mortgaged property is delivered to the mortgagee,

shall be valid in favour of a person who is not an agriculturist:

Provided that the Collector or an officer authorised by the [2][State] Government in this behalf may grant permission for such sale, gift, exchange, lease or mortgage, on such conditions as may be prescribed.

[1] These words and figures were inserted by Bom. 33 of 1952, s. 13.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*2*) Nothing in this section shall be deemed to prohibit the sale, gift, exchange or lease of a dwelling house or the site thereof or any land appurtenant to it in favour of an agricultural labourer or an artisan.

[1][(*3*) Nothing in this section shall apply or be deemed to have applied to a mortgage of any land or interest therein effected in favour of a co-operative society as security for the loan advanced by such society.]

Sale of agricultural land to particular persons.

64. (*1*) Where a landlord intends to sell any land he shall apply to the Tribunal for determining its reasonable price. In determining the reasonable price, the Tribunal shall take into consideration the factors to be taken into consideration in fixing the reasonable rent under section 12.

(*2*) After the Tribunal has determined the reasonable price, the landlord shall make an offer in the prescribed form to persons in the following order of priority provided that the person to whom the offer has been made has failed to pay to him the amount of the reasonable price as determined by the Tribunal or to deposit the same with the Tribunal within two months from the date on which the offer is communicated to such person. The order of priority shall be as follows :—

A. In the case of agricultural land other than a dwelling house, the site thereof and land appurtenant to such house when such site or dwelling house or land is not used or is not necessary to carry on agricultural operations in the adjoining lands—

(*i*) the tenant in actual possession of the land,

(*ii*) the person or persons personally cultivating any land adjacent to the land to be sold,

(*iii*) a co-operative farming society,

(*iv*) any other agriculturist,

(*v*) any other person who has obtained from the Collector a certificate that he intends to take the profession of agriculturist.

B. In the case of a dwelling house, or a site of a dwelling house or land appurtenant to such house when such dwelling house, site or land is not used or is not necessary to carry on agricultural operations in the adjoining lands—

(*i*) the tenant if he does not own a dwelling house or a suitable site for such house,

(*ii*) the person residing in the village who is not in possession of any dwelling house :

Provided that if there are more than one such persons the offer shall be made to such person or persons and in such order of priority as the Collector may determine in this behalf having regard to the needs of the following persons, namely :—

(*a*) an agricultural labourer,
(*b*) an artisan,
(*c*) any other person in the village.

[1] This sub-section was added by Bom. 12 of 1951, s. 6.

[1][(*2A*) (*a*) Notwithstanding anything contained in the foregoing provisions of this section, a landlord may, after obtaining the previous permission of the Tribunal as provided in the next succeeding clause (*b*), sell any land to the tenant in actual possession thereof at a price mutually agreed upon between him and the tenant.

(*b*) The landlord shall make an application in writing to the Tribunal for permission to sell the land at such price. On receipt of the application, the Tribunal shall grant the permission if, on holding an inquiry, it is satisfied that the price has been agreed to voluntarily by the tenant.]

(*3*) Any sale made in contravention of this section shall be void.

Exemption to sales by or in favour of co-operative societies.

Bom. VII of 1925.

[2][**64A.** Nothing in sections 63 and 64 shall apply to sales effected by or in favour of a co-operative society under the Bombay Co-operative Societies Act, 1925.]

Assumption of management of lands which remained uncultivated.

65. (*1*) If it appears to the [3][State] Government that for any two consecutive years, any land has remained uncultivated through default of either the landlord or tenant or any other cause whatsoever the [3][State] Government may, after making such inquiry as it thinks fit, declare that the management of such land shall be assumed. The declaration so made shall be conclusive.

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[1] This sub-section was inserted by Bom. 60 of 1953, s. 2.
[2] This section was inserted by Bom. 12 of 1951, s. 7.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*2*) On the assumption of the management, such land shall vest in the [1][State] Government during the continuance of the management and the provisions of Chapter IV shall *mutatis mutandis* apply to the said land :

Provided that the manager shall have power to give such land on lease at rent equal to the amount of its assessment.

Acquisition of estate or land under management or interest therein.

66. (*1*) If at any time it appears to the [1][State] Government that any estate or land, the management of which has been assumed under the provisions of this Act or the interest of any other person in such estate or land should, in the public interest, be compulsorily acquired, it shall be lawful for the [1][State] Government to publish a notification to that effect in the *Official Gazette*. The notification so published shall be conclusive that the estate, land or interest is needed to be acquired in public interest.

(*2*) On the publication of the notification, the Collector shall cause publicity to be given to it at convenient places in the locality and also give notices to the holder of the estate, land or interest and to all persons known or believed to be interested therein.

(*3*) The Collector shall then make an inquiry in the prescribed manner to determine the value of the estate, land or interest which has been acquired. For the said purpose the Collector shall have the same powers as are vested in courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying a suit :—

V of 1908.

(*a*) proof of facts by affidavits,

(*b*) summoning and enforcing the attendance of any person and examining him on oath ; and,

(*c*) compelling the production of documents.

(*4*) In determining the value the Collector shall take into consideration—

(*a*) the assessment payable in respect of the estate or land ;

(*b*) the profits of agriculture and cultivation of the estate or land and of similar estates and lands in the locality ;

(*c*) the prices of crops and commodities in the locality ;

(*d*) exemption from assessment and other privileges enjoyed by the holder and other persons interested in respect of the land, estate and interest ;

(*e*) any other matter which may be prescribed.

(*5*) After determining the value of the estate, land or interest, the Collector shall make an award which shall contain—

(*a*) the particulars of the estate, land or interest,

(*b*) the compensation which in his opinion should be allowed for the land,

(*c*) the apportionment of the compensation among all persons known or believed to be interested.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

(*6*) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence as between the Collector and persons interested whether they have respectively appeared before the Collector or not of all the particulars including area and value of the estate, land or interest and the apportionment of compensation.

(*7*) When the Collector has made an award, the estate, land or interest therein shall vest in the [1][Government] free from all incumbrances.

CHAPTER VI.

PROCEDURE AND JURISDICTION OF TRIBUNAL AND MAMLATDAR AND APPEALS.

Constitution of the Tribunal.

67. (*1*) For the purposes of this Act, the [2][State] Government shall constitute a Tribunal for any area to be called the Agricultural Lands Tribunal.

(*2*) The Tribunal shall consist of three or more members one of whom shall be the President. One member at least of the Tribunal shall be a person who is holding or has held a judicial office not lower in rank than that of a Civil Judge under the Bombay Civil Courts Act, 1869, or who has been for not less than three years a barrister, a member of the Faculty of Advocates in Scotland or an Advocate enrolled under the Indian Bar Councils Act, 1926, or a pleader enrolled under the Bombay Pleaders Act, 1920. XIV of 1869. XXXVIII of 1926. Bom. XVII of 1920.

(*3*) For any area for which the Tribunal has not been constituted, the Mamlatdar or any officer authorised in this behalf by the [2][State] Government shall exercise the powers and perform the duties and functions of the Tribunal.

Duties of the Tribunal.

68. It shall be the duty of the Tribunal—

(*a*) to determine the value of the site of a dwelling house under section 17;

(*b*) to decide any dispute as to the particular area of land to be purchased under section 32;

(*c*) to determine the reasonable price of the land under section 32 and section 64;

(*d*) to perform such other functions in carrying out the provisions of this Act, as may be prescribed or as may be directed by the [2][State] Government.

Powers of the Tribunal.

69. (*1*) The Tribunal shall have the same powers in making inquiries under this Act as are vested in Courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying a suit, namely:— V of 1908.

(*a*) proof of facts by affidavits;

(*b*) summoning and enforcing the attendance of any person and examining him on oath; and

(*c*) compelling the production of documents.

(*2*) The Tribunal shall have also such other powers as may be prescribed. The Tribunal shall have powers to award costs.

(*3*) The orders of the Tribunal shall be given effect to in the manner provided in section 73.

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[1] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Provincial", *ibid.*

Duties of the Mamlatdar.

70. For the purposes of this Act, the following shall be the duties and functions to be performed by the Mamlatdar—

(*a*) to decide whether a person is an agriculturist ;

(*b*) to decide whether a person is a tenant or a protected tenant ;

(*c*) to determine the value of the crop of the land under section 6 ;

(*d*) to determine the amount of rent in commutation of crop share rent under section 8 ;

(*e*) to determine the amount of the commutation of the rent received in terms of labour or service under section 9 ;

(*f*) to determine the amount of compensation under section 10 for the contravention of sections 6 to 9 ;

(*g*) to decide what is the reasonable rent under section 12 ;

(*h*) to determine the amount to be refunded to a tenant under section 13(*5*) ;

(*i*) to determine the amount of compensation for trees to which a tenant is entitled under section 19 ;

(*j*) to determine any dispute regarding the right to produce of trees naturally growing under section 20 ;

(*k*) to determine the costs of repairing protective bunds under section 23 ;

(*l*) to sanction exchange of tenancies under section 33 ;

(*m*) to determine the amount of compensation payable to a protected tenant for any improvement under section 41 ;

(*n*) to take measures for putting the tenant or landlord or the agricultural labourer or artisan into the possession of the land or dwelling house under this Act ; and

(*o*) to decide such other matters as may be referred to him by or under this Act.

Commencement of proceedings.

71. Save as expressly provided by or under this Act, all inquiries and other proceedings before the Mamlatdar or Tribunal shall be commenced by an application which shall contain the following particulars :—

(*a*) the name, age, profession and place of residence of the applicant and the opponent ;

(*b*) a short description and situation of the property of which possession is sought, or the amount of the claim, as the case may be ;

(*c*) the circumstances out of which the cause of action arose ;

(*d*) a list of the applicant's documents, if any, and of his witnesses, and whether such witnesses are to be summoned to attend or whether the applicant will produce them on the day of the hearing ;

(*e*) such other particulars as may be prescribed.

Procedure.

72. In all inquiries and proceedings commenced on the presentation of applications under section 71 the Mamlatdar or the Tribunal shall exercise the same powers as the Mamlatdar's Court under the Mamlatdars' Courts Act, 1906, and shall [1][save as provided in section 29] follow the provisions of the said Act, as if the Mamlatdar or the Tribunal were a Mamlatdars' Court under the said Act and the application presented was a plaint presented under section 7 of the said Act. In regard to matters which are not provided for in the said Act, the Mamlatdar or the Tribunal

Bom. II of 1906.

[1] These words and figures were inserted by Bom. 45 of 1951, s. 3.

shall follow the procedure as may be prescribed by the [1][State] Government. Every decision of the Mamlatdar or the Tribunal shall be recorded in the form of an order which shall state reasons for such decision.

Power of Collector to transfer proceedings.

[2][**72A.** The Collector may, after due notice to the parties, by order in writing transfer any proceeding under this Act pending before a Mamlatdar in his district from such Mamlatdar to any other Mamlatdar in his district and the Mamlatdar to whom the proceeding is so transferred shall thereupon exercise jurisdiction under this Act in such proceeding :

Provided that any order issued to village officers under sub-section (*2*) of section 73 shall be issued by the Mamlatdar to whom such village officers are subordinate.]

Execution of order for payment of money or for restoring possession.

73. (*1*) Any sum the payment of which has been directed by an order of the Mamlatdar or the Tribunal including an order awarding costs shall be recoverable from the person ordered to pay the same as an arrear of land revenue.

(*2*) An order of the Mamlatdar or the Tribunal awarding possession or restoring the possession or use of any land shall be executed in the manner provided in section 21 of the Mamlatdars' Courts Act, 1906, as if it was the decision of the Mamlatdar under the said Act. Bom. II of 1906.

Appeals.

74. (*1*) An appeal against the orders of the Mamlatdar and Tribunal may be filed to the Collector in the following cases :—

(*a*) an order under section 4,
(*b*) an order under section 6,
(*c*) an order under section 8,
(*d*) an order under section 9,
(*e*) an order under section 10,
(*f*) an order under section 12,
(*g*) an order under section 13,
(*h*) an order under section 17,
(*i*) an order under section 19,
(*j*) an order under section 20,
(*k*) an order under section 23,
(*l*) an order under section 25,
(*m*) an order under section 29,
[3][(*mm*) an order under section 31,]
(*n*) an order under section 32,
(*o*) an order under section 33,
(*p*) an order under section 37,
(*q*) an order under section 39,
(*r*) an order under section 41 and
(*s*) an order under section 64.

(*2*) Save as otherwise provided in this Act, the provisions of Chapter XIII of the Bombay Land Revenue Code, 1879, shall apply to appeals to the Collector under this Act, as if the Collector were the immediate superior of the Mamlatdar or the Tribunal. The Collector in appeal shall have power to award costs. Bom. V of 1879.

[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] This section was inserted by Bom. 12 of 1951, s. 8.
[3] Clause (*mm*) was inserted by Bom. 33 of 1952, s. 14.

Powers of Collector to transfer and withdraw appeals.

[1][**74A.** The Collector may, after due notice to the parties, by order in writing,—

(*a*) transfer any appeal pending before him or before any Assistant or Deputy Collector subordinate to him to any Assistant or Deputy Collector specified in such order, performing the duties and exercising the powers of a Collector and upon such transfer the Assistant Collector or the Deputy Collector, as the case may be, shall have power to hear and decide the appeal as if it was originally filed to him ; or

(*b*) withdraw any appeal pending before any Assistant or Deputy Collector and himself hear and decide the same.]

Appeal against award of Collector.

Bom. XII 1939.

75. (*1*) An appeal against the award of the Collector made under section 66 may be filed to the Bombay Revenue Tribunal, notwithstanding anything contained in the Bombay Revenue Tribunal Act, 1939.

(*2*) In deciding appeals under sub-section (*1*), the Bombay Revenue Tribunal shall exercise all the powers which a court has and follow the same procedure which a court follows in deciding appeals from the decree or order of an original court under the Code of Civil Procedure, 1908.

V of 1908.

Revision.

Bom. XII of 1939.

76. (*1*) Notwithstanding anything contained in the Bombay Revenue Tribunal Act, 1939, an application for revision may be made to the Bombay Revenue Tribunal constituted under the said Act against any order of the Collector on the following grounds only :—

(*a*) that the order of the Collector was contrary to law ;

(*b*) that the Collector failed to determine some material issue of law ; or

(*c*) that there was a substantial defect in following the procedure provided by this Act, which has resulted in the miscarriage of justice.

(*2*) In deciding applications under this section the Bombay Revenue Tribunal shall follow the procedure which may be prescribed by rules made under this Act after consultation with the Bombay Revenue Tribunal.

Court-fees.

VII of 1870.

77. Notwithstanding anything contained in the Court-fees Act, 1870, every application or appeal made under this Act to the Mamlatdar, Tribunal, Collector or Bombay Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed.

Orders in appeal or revision

78. (*1*) The Collector in appeal and the Bombay Revenue Tribunal in appeal under section 75 and in revision under section 76 may confirm, modify or rescind the order in appeal or revision or its execution or may pass such other order as may seem legal and just in accordance with the provisions of this Act.

(*2*) The orders of the Collector in appeal or of the Bombay Revenue Tribunal in appeal or revision shall be executed in the manner provided for the execut on of the orders of the Mamlatdar and Tribunal under section 73.

Limitation.

79. Every appeal or application for revision under this Act shall be filed within a period of sixty days, from the date of the order of the Mamlatdar, Tribunal or Collector, as the case may be. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal or application for revision.

IX of 1908.

Inquiries and proceedings to be judicial proceedings.

XLV of 1860.

80. All inquiries and proceedings before the Mamlatdar, the Tribunal, the Collector and the Bombay Revenue Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

[1] Section 74A was substituted for the original by Bom. 53 of 1952, s. 15.

Pleaders, etc., excluded from appearance.

[1][**80A.** Notwithstanding anything contained in this Act or any law for the time being in force, no pleader shall be entitled to appear on behalf of any party in any proceedings under this Act before the Mamlatdar, the Tribunal or the Collector:

Provided that the Mamlatdar, the Tribunal or the Collector may, in the interest of justice for reasons to be recorded in writing, allow the parties to be represented at their own cost by a pleader:

Provided further that pleader's fees shall not be allowed as part of the costs for the appearance of a pleader in any such proceedings:

Provided also that if any officer of Government is appointed or declared by a competent court or is authorised under any law for the time being in force as a guardian, administrator or manager of the property of a person who is under a legal disability or is incompetent or unable to manage or to act, such officer shall be entitled to appear through a representative authorised by him in writing in this behalf in any proceedings before the Mamlatdar, the Tribunal or the Collector. Such representative may also submit any application and otherwise act on behalf of the officer in any such proceedings.

Explanation.—For the purposes of this section the expression 'pleader' includes an advocate, attorney, vakil or any other legal practitioner.]

CHAPTER VII.

OFFENCES AND PENALTIES.

Offences and penalties.

81. (*1*) Whoever contravenes any provision of any of the sections, sub-sections or clauses mentioned in the first column of the following Table shall, on conviction, for each such offence, be punishable with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation.—The entries in the second column of the said table headed 'subject' are not intended as the definitions of offences described in the sections, sub-sections and clauses mentioned in the first column, or even as abstracts of those sections, sub-sections and clauses, but are inserted merely as references to the subjects of the sections, sub-sections and clauses, the numbers of which are given in the first column.

TABLE.

Section, sub-section or clause.	Subject.	Fine which may be imposed.
1	2	3
		Rs.
Section 5	.. Tenancy of land for a period less than ten years or termination of tenancy before the expiry of period of ten years.	1,000
Section 8 (*3*)	.. Recovery of rent by way of crop-share or in excess of commuted cash-rent.	1,000
Section 9 (*3*)	.. Receipt of rent in form of labour or service	1,000
Section 11	.. Levy of cess, rate, vero, huk, tax or service which has been abolished.	1,000
Section 26 (*2*)	.. Failure to give written receipt for the amount of rent received.	100
Section 29	.. Taking possession of land or dwelling house contrary to section 29.	1,000

(*2*) An offence for the contravention of the provisions of section 9 or 11 shall be cognizable.

[1] Section 80A was inserted by Bom. 60 of 1953, s. 3.

CHAPTER VIII.

MISCELLANEOUS.

Rules.

82. (*1*) The [1][State] Government may make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provisions such rules may provide for the following matters :—

(*a*) the manner of determining the value of the crop of the land under section 6 ;

(*b*) the manner of determining the amount of commutation of crop-share rent into cash under section 8 ;

(*c*) the penalty to be recovered under section 10 ;

(*d*) the other factors to be taken into consideration for determining reasonable rent under section 12 ;

(*e*) the fees to be paid for the grant of a certificate and the form of such certificate under sub-section (*3*) of section 17 ;

(*f*) the manner and the form in which a receipt is to be given by the landlord under section 26 ;

(*g*) the manner of determining the reasonable price of land and the period during which the amount of price may be deposited under section 32 ;

(*h*) the terms and conditions for exchange of lands and the form of certificate to be issued under section 33 ;

(*i*) the manner of determining debts and liabilities under section 52 ;

(*j*) the manner of notifying liquidation scheme sanctioned under section 56 ;

(*k*) the conditions subject to which permission to acquire land or interests therein may be granted under section 63 ;

(*l*) the manner of making inquiry to determine the value of the estate, land or interest acquired and any other matter to be taken into consideration in determining the value under section 66 ;

(*m*) the other functions of the Tribunal under section 68 ;

(*n*) the other powers of the Tribunal under section 69 ;

(*o*) the other procedure to be followed by the Mamlatdar and Tribunal under section 72 ;

(*p*) the value of the court-fee stamp payable on an application to the Mamlatdar or Tribunal or on an application or appeal to the Collector or Bombay Revenue Tribunal under section 77 ;

(*q*) any other matter which is or may be prescribed under this Act.

(*3*) Rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

Delegation of powers.

83. The [1][State] Government may, subject to such restrictions and conditions as it may impose, by notification in the *Official Gazette*, delegate to any of its officers, not below the rank of an Assisant or Deputy Collector, all or any of the powers conferred on it by this Act.

Summary eviction.

84. Any person unauthorisedly occupying or wrongfully in possession of any land—

(*a*) the transfer of which either by the act of parties or by the operation of law is invalid under the provisions of this Act,

(*b*) the management of which has been assumed under the said provisions, or

(*c*) to the use and occupation of which he is not entitled under the said provisions

and the said provisions do not provide for the eviction of such persons,

may be summarily evicted by the Collector.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Bar of jurisdiction.

85. (*1*) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Mamlatdar or Tribunal, a Manager, the Collector or the Bombay Revenue Tribunal in appeal or revision or the [1][State] Government in exercise of their powers of control.

(*2*) No order of the Mamlatdar, the Tribunal, the Collector or the Bombay Revenue Tribunal or the [1][State] Government made under this Act shall be questioned in any civil or criminal court.

Explanation.—For the purposes of this section, a Civil Court shall include a Mamlatdar's Court constituted under the Mamlatdars' Courts Act, 1906. Bom II of 1906

Control.

86. In all matters connected with this Act, the [1][State] Government shall have the same authority and control over the Mamlatdars and the Collectors acting under this Act as they have and exercise over them in the general and revenue administration.

Indemnity.

87. No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

Act not to apply to certain lands and areas.

88. (*1*) Nothing in the foregoing provisions of this Act shall apply—

(*a*) to lands held on lease from the [2][Government], a local authority or a co-operative society ;

(*b*) to lands held on lease for the benefit of an industrial or commercial undertaking ;

[3][(*c*) to any area within the limits of Greater Bombay, within the limits of the Municipal Corporations constituted under the Bombay Provincial Municipal Corporations Act, 1949, within the limits of the municipal boroughs constituted under the Bombay Municipal Boroughs Act, 1925, and within the limits of any cantonment ; or] Bom. LIX of 1949. Bom. XVIII of 1925.

(*d*) to any area which the [1][State] Government may, from time to time, by notification in the *Official Gazette*, specify as being reserved for urban non-agricultural or industrial development :

[4][Provided that nothing in this sub-section shall apply to any lands forming part of an estate taken under management by and vesting in the State Government under Chapter IV, or to the lands taken under management temporarily by the Civil, Revenue or Criminal Courts by themselves or through the receivers appointed by them, till the decision of the title of the rightful owner.]

[5][*Explanation.*—Where a part of a survey number or sub-division falling within any of the limits referred to in clause (*c*) is equal to or exceeds half the area of such survey number or sub-division, the whole of the survey number or sub-division shall be deemed to be included in the area within such limits.]

[6][(*1A*) A protected tenant whose name stands entered as an owner in the record of rights on the first day of January 1952 in respect of any land fifty acres or more of jirayat or twelve and half acres or more of irrigated land in area in addition to the land held by him on lease as a protected tenant shall not be entitled to any rights or privileges conferred on a protected tenant by the provisions of section 32 or 34.]

(*2*) Notwithstanding anything contained in sub-section (*1*) the [1][State] Government may, by notification published in the *Official Gazette*, direct that any particular land or class of lands in any area shall not be exempt from all or any of the provisions of this Act.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

[2] This word was substituted for the word "Crown", *ibid*,

[3] Clause (*c*) was substituted for the original by Bom. 33 of 1952, s. 16 (*1*) (*a*).

[4] This proviso was added, *ibid*, s. 16 (*1*) (*b*).

[5] This Explanation was added by Bom. 60 of 1953, s. 4.

[6] Sub-section (*1A*) was inserted by Bom. 33 of 1952, s. 16 (*2*).

89. (*1*) The enactment specified in the Schedule is hereby repealed to the extent mentioned in the fourth column thereof. Repeal.

(*2*) But nothing in this Act or any repeal effected thereby—

Bom. V of 1879. (*a*) shall affect the amendments made in section 59 of the Bombay Land Revenue Code, 1879, or sections 6 and 9 of the Khoti Settlement Act, 1880;

Bom. I of 1880 (*b*) shall save as expressly provided in this Act, affect or be deemed to affect,

(*i*) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(*ii*) any legal proceeding or remedy in respect of any such right, title, interest, obligation or liability or anything done or suffered before the commencement of this Act,

and any such proceedings shall be continued and disposed of, as if this Act was not passed.

(*3*) Notwithstanding anything contained in sub-section (*2*), all proceedings for the recovery or restoration of the possession of the land under section 7 of the Act so repealed, pending at the date of the commencement of this Act before the Mamlatdar or in appeal before the Collector, shall, notwithstanding anything contained in this section, be deemed to have been instituted and pending before the Mamlatdar or in appeal before the Collector, as the case may be, under this Act and shall be disposed of in accordance with the provisions of this Act.

Bom. XXIX of 1939. (*4*) Any appointment, notification, notice, order, rule or form made or issued under the Bombay Tenancy Act, 1939, shall continue to be in force and deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act or rules made thereunder and shall continue to be in force unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued under this Act.

THE SCHEDULE.

Enactment repealed.

(*See* section 89.)

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1939	XXIX	The Bombay Tenancy Act, 1939.	The whole except sections 3, 3-A and 4 as modified in the following manner, namely :—
			3. A tenant shall be deemed to be a protected tenant in respect of any land if— Protected tenants.
			(*a*) he has held such land continuously for a period of not less than six years immediately preceding either—
			(*i*) the first day of January 1938, or
			(*ii*) the first day of January 1945; and
			(*b*) he has cultivated such land personally during the aforesaid period.
			Explanation I.—If the person who held such land on the first day of January 1938 or the first day of January 1945, as the case may be, came to hold the same by inheritance or succession from another person or if he has held such land as a tenant and is an heir to such other person, the period during which such other person held such land as a tenant shall be included in calculating the period of six years under this section.

Year.	No.	Short title.	Extent of repeal.
1	2	3	4

Explanation II.—If the person who held such land on the first day of January 1938 or the first day of January 1945, as the case may be, held as a tenant at any time within six years before the said date from the same landlord in the same village any other land which he cultivated personally, the period during which he held such other land shall be included in calculating the period of six years under this section.

Explanation III.—Where any land is held by two or more persons jointly as tenants, all such persons shall, if any one of them cultivated and continues to cultivate such land personally and if the other conditions specified in this section are fulfilled, be deemed to be protected tenants in respect of such land.

Tenants on expiry of one year from coming into force of Bom. XXVI of 1946 to be deemed protected tenants.

3A Every tenant shall, from the eighth day of November 1947 be deemed to be a protected tenant for the purposes of this Act and his rights as such protected tenant shall be recorded in the Record of Rights, unless his landlord has prior to the aforesaid date made an application to the Mamlatdar for a declaration that the tenant is not a protected tenant.

Explanation.—A person shall not be deemed to be a protected tenant if such person has been on an application made by the owner of the land as provided in section 3-A of the Bombay Tenancy Act, 1939, declared by a competent authority not to be a protected tenant. Bom. XXIX of 1939.

Tenants evicted after 1st April 1937 to be deemed protected tenants.

4. (*1*) Every tenant shall be deemed to be a protected tenant for the purposes of this Act, if he—

(*a*) held any land and cultivated it personally continuously for a period of not less than six years immediately preceding the first day of April 1937 and was evicted from such land on or after such date otherwise than by order of a competent authority on any of the grounds specified in section 14 of this Act, or

(*b*) held any land and cultivated it personally continuously for a period of not less than six years immediately preceding the first day of April 1944 and was evicted from such land on or after such date otherwise than by order of a competent authority on any of the grounds specified in section 14 of this Act:

Provided that any tenant who had been evicted from the land in consequence of his failure to tender the rent referred to in section 9 of the Bombay Small Holders Relief Act, 1938, as provided therein, shall not be deemed to be a protected tenant for the purposes of this Act, unless he had paid to the landlord such rent in cases falling under clause (*a*) within four months from the date on which this section came into force in the area in which the land is situated and in cases falling under clause (*b*) within six months from the eighth day of November 1946. Bom. VIII of 1938.

Year.	No.	Short title	Extent of repeal
1	2	3	4

(*2*) A person who is deemed to be a protected tenant under sub-section (*1*) shall, if he had intimated in writing to the landlord in cases falling under clause (*a*) of sub-section (*1*) within one year after the coming into force of this section in the area in which the land is situated and in cases falling under clause (*b*) of sub-section (*1*) within one year after the eighth day of November 1946, that he is willing to hold the land on the same terms and conditions on which he held it at the time when he was evicted, be entitled to recover possession of the land—

(*a*) in cases falling under clause (*a*) of sub-section (*1*)—

(*i*) if the land has been leased out by the landlord for a period expiring after the 31st day of May immediately following the date of the coming into force of this section in the area in which the land is situated, from the date on which such lease expires; and

(*ii*) in other cases, from the 1st day of June immediately following the date of the coming into force of this section in the area in which the land is situated;

(*b*) in cases falling under clause (*b*) of sub-section (*1*)—

(*i*) if the land has been leased out by the landlord for a period expiring after 31st day of May 1947 from the date on which such lease expires; and

(*ii*) in other cases from the 1st day of June 1947 and on so recovering possession, he shall, subject to the provisions of this Act, hold the land on the said terms and conditions.

(*3*) The provisions of this section shall not apply in cases where the landlord is using the land for any of the purposes mentioned in sub-section (*1*) of section 34 of this Act.

THE PROVINCIAL INSOLVENCY (BOMBAY AMENDMENT) ACT, 1948.

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2. Amendment of sections 6 and 6A of Act V of 1920.
3. Validation of certain rules and notices.

-1 Bk H 957—66

M-63

BOMBAY ACT No. LXVIII OF 1948.[1]

[THE PROVINCIAL INSOLVENCY (BOMBAY AMENDMENT) ACT, 1948.]

[*30th December 1948.*]

An Act to amend the Provincial Insolvency Act, 1920, in its application to the Province of Bombay.

V of 1920. WHEREAS it is expedient to amend the Provincial Insolvency Act, 1920, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Provincial Insolvency (Bombay Amendment) Act, 1948.

V of 1920. 2. In the Provincial Insolvency Act, 1920,— **Amendment of sections 6 and 6A of Act V of 1920.**

(*a*) for clause (*i*) of section 6, the following shall be substituted, namely:—

"(*i*) if, after a creditor has served an insolvency notice on him under this Act in respect of a decree or an order for the payment of any amount due to such creditor, the execution of which is not stayed, he does not, within the period specified in the notice which shall not be less than one month, either comply with the requirements of the notice or satisfy the Court that he has a counter-claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him."

(*b*) in sub-section (*1*) of section 6A, after the words "or his agent" the words ",or to satisfy the Court that he has a counter-claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him" shall be inserted.

Validation of certain rules and notices. 3. The amendments made by this Act shall be deemed to have been made with effect from the 19th day of June 1939 and notwithstanding any judgment of any Court or anything contained in any law,—

V of 1920. (*a*) the rules including the forms relating to insolvency notices made by the High Court under the Provincial Insolvency Act, 1920, before the date of coming into operation of this Act shall be deemed to have been made under the said Act as amended by this Act, and

(*b*) no insolvency notice issued under any of the said rules and no order of adjudication made for non-compliance with any such notice made before the date of coming into operation of this Act shall be called in question in any Court on the ground merely that any of the rules under which or the form in which the notice was issued was not authorised by the provisions of the said Act.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, Part V, page 512.

MO-1 Bk H 957—86a

THE BOMBAY HOUSING BOARD ACT, 1948.

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SCHEDULE.

BOMBAY ACT No. LXIX OF 1948.[1]

[THE BOMBAY HOUSING BOARD ACT, 1948.]

[*30th December 1948*]

Amended by Bom. 19 of 1949.
" " " 8 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 49 of 1950.
" " " 11 of 1951.
" " " 46 of 1951.
" " " 32 of 1952.
" " " 25 of 1955.

An Act to provide for measures to be taken to deal with and satisfy the need of housing accommodation.

WHEREAS it is expedient to take such measures, to make such schemes and to carry out such works as are necessary for the purpose of dealing with and satisfying the need of housing accommodation and with that object in view it is necessary to establish a Board and to make certain other provisions hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Housing Board Act, 1948.

(*2*) It extends to the whole of the [2][State] of Bombay.

(*3*) It shall come into force in such area and on such date as the [3][State] Government may, by notification in the *Official Gazette*, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "adjoining area" means such area as may be specified to be an adjoining area under section 24;

(*2*) "betterment charges" means the charges leviable under section 43;

(*3*) "Board" means the Housing Board constituted under section 3;

[4][(*3A*) "Board premises" means any premises belonging to or vesting in the Board or taken on lease by the Board or entrusted to the Board under this Act for management and use for the purposes of this Act;]

(*4*) "building materials" means such commodities or articles as are specified to be building materials for the purposes of this Act by the [3][State] Government by notification in the *Official Gazette*;

(*5*) "by-laws" means by-laws made under section 68;

(*6*) "Chairman" means the Chairman of the Board;

[5](*6A*) "competent authority" means any person authorised by the State Government by notification in the *Official Gazette* to perform the functions of the competent authority under Chapter V-A for such area as may be specified in the notification [6][and shall be a person who is holding or has held an office, which is not lower in rank than that of a Deputy Collector or the Assistant Housing Commissioner under the Board];

(*7*) "Corporation" means the Municipal Corporation of the City of Bombay;

(*8*) "Housing Scheme" means a Housing Scheme made under this Act;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 590.
[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word "Provincial", *ibid.*
[4] Clause (*3A*) was inserted by Bom. 32 of 1952, s. 2 (*1*).
[5] Clause (*6A*) was inserted, *ibid.*, s. 2 (*2*).
[6] This portion was added by Bom. 25 of 1955, s. 2 (*1*).

(*9*) "Land" includes benefits to arise out of land and things attached to the earth or permanently fastened and things attached to the earth or permanently fastened to anything attached to the earth;

(*10*) "member" means a member of the Board;

[1][(*10A*) "premises" means any [2][and or] building or part of a building and includes—

(*i*) gardens, grounds and out-houses, if any, appertaining to such building or part of a building, and

(*ii*) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;]

(*11*) "prescribed" means prescribed by rules;

(*12*) "programme" means the annual housing programme prepared by the Board under section 26;

(*13*) "regulations" means regulations made under section 67;

(*14*) "rules" means rules made under section 66;

(*15*) "Secretary" means the Secretary of the Board;

(*16*) "Tribunal" means the Tribunal constituted under section 49;

(*17*) "year" means the year commencing on the 1st day of April and ending on the 31st day of March.

CHAPTER II.

ESTABLISHMENT OF THE BOARD.

Incorporation.

3. (*1*) With effect from such date as the [3][State] Government may, by notification in the *Official Gazette*, appoint in this behalf there shall be established for the purposes of this Act a Board by the name of the Bombay Housing Board.

(*2*) The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both moveable and immoveable and to contract and do all things necessary for the purposes of this Act.

(*3*) For the purposes of this Act and the Land Acquisition Act, 1894, and the Land Acquisition (Bombay Amendment) Act, 1948, the Board shall be deemed to be a local authority. I of 1894. Bom. IV of 1948.

[4][*Explanation.*—The purposes of this Act referred to in sub-section (*3*) include the management and use of lands and buildings belonging to or vesting in the Board under or for the purposes of this Act and the exercise of its rights over and with respect to such lands and buildings for the purposes of this Act.]

Removal of doubt regarding non-applicability of Bom. LVII of 1947.

[5][**3A.** For the removal of doubt, it is hereby declared that the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947,— Bom. LVII of 1947.

(*a*) shall not apply nor shall be deemed to have ever applied to any land or building belonging to or vesting in the Board under or for the purposes of this Act;

(*b*) shall not apply nor shall be deemed to have ever applied as against the Board to any tenancies or other like relationship created by the board in respect of such land or building;

(*c*) but shall apply to any land or building let to the Board.]

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[1] Clause (10*A*) was inserted by Bom. 32 of 1952, s. 2 (*3*).

[2] These words were inserted by Bom. 25 of 1955, s. 2 (*2*).

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] This Explanation was added by Bom. 11 of 1951, s. 2.

[5] This section was inserted *ibid.*, s. 3.

Constitution of the Board.

4. (*1*) The Board shall consist of the Chairman and four other members appointed by the [1][State] Government.

(*2*) Any member of the Board may at any time resign his office by submitting his resignation to the [1][State] Government :

Provided that the resignation shall not take effect until it is accepted.

Leave of absence of Chairman.

5. The [1][State] Government may from time to time grant to the Chairman such leave as may be admissible under the rules and any person whom the [1][State] Government appoints to act for the Chairman during such absence on leave shall, while so acting, be deemed for all purposes of this Act to be the Chairman.

Disqualification for appointment on Board.

6. (*1*) A person shall be disqualified for being appointed or continuing as the Chairman or member of the Board, if he—

(*a*) holds any office or place of profit under the Board,

(*b*) is of unsound mind,

(*c*) is an uncertificated bankrupt or an undischarged insolvent,

(*d*) has directly or indirectly by himself or by any partner, any share or interest in any contract or employment with, by or on behalf of, the Board, or

(*e*) is a Director or a Secretary, Manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board.

(*2*) A person shall not, however, be disqualified under clause (*d*) or (*e*) of sub-section (*1*) or be deemed to have any share or interest in any contract or employment within the meaning of these clauses, by reason only of his or the incorporated company of which he is a Director, Secretary, Manager or other salaried officer having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board is inserted.

(*3*) A person shall not also be disqualified under clause (*d*) or (*e*) of sub-section (*1*) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board, by reason only of his being a shareholder of such company :

Provided that such person discloses to the [1][State] Government the nature and extent of the shares held by him.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Term of office and conditions of service of members.

7. (*1*) Every member shall hold office for a period of three years from the date of his appointment :

Provided that after the expiry of the period of his appointment a person shall be eligible for re-appointment as a member.

(*2*) Every member shall receive such allowances as may be prescribed.

[1][(*3*) The Chairman may hold office in an honorary capacity or on payment of remuneration. If any remuneration is to be paid to the Chairman, such remuneration and other conditions of service shall be such as may be prescribed.]

(*4*) The allowances to the members and the remuneration [2][, if any,] to the Chairman shall be paid from the fund of the Board.

Vacancy of a member.

8. If a member,—

(*a*) becomes subject to any of the disqualifications mentioned in section 6,

(*b*) tenders his resignation in writing to the [3][State] Government, or

(*c*) is absent without the permission of the Board from all the meetings of the Board for a period of two successive months,

he shall cease to be a member.

Vacancy to be filled as early as practicable.

9. Any vacancy of a member of the Board shall be filled in as early as practicable :

Provided that during any such vacancy the continuing members may act, as if no vacancy had occurred.

Proceedings presumed to be good and valid.

10. No disqualification of or defect in the appointment of any person acting as a Chairman or a member of the Board shall be deemed to vitiate any act or proceeding of the Board, if such act or proceeding is otherwise in accordance with the provisions of this Act.

Temporary absence of members.

11. If any member of the Board other than the Chairman is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise not involving the vacation of his appointment, the [3][State] Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder.

Appointment of officers and servants.

12. The Board may appoint a Secretary, [4][one or more Assistant Housing Commissioners and] a Housing Commissioner and such other officers and servants as it considers necessary for the efficient performance of its functions :

Provided that the appointment of the Secretary [4][, any Assistant Housing Commissioner] and the Housing Commissioner and any other officer whose salary exceeds rupees one thousand per mensem shall be subject to the previous approval of the [3][State] Government.

Conditions of service of officers and servants.

13. The remuneration and other conditions of service of the Secretary, Housing Commissioner and other officers and servants of the Board shall be such as may be determined by regulations.

Provident fund.

[5][**13A.** (*1*) The State Government shall establish a provident fund for the Secretary, Housing Commissioner and other officers and servants of the Board and such provident fund (hereinafter called the said fund) shall, notwithstanding anything contained in section 8 of the Provident Funds Act, 1925, be deemed to be a Government Provident Fund for the purposes of the said Act.

XIX of 1925.

(*2*) The Board shall in respect of each of its employees who is a subscriber to the said fund, pay into the said fund such portion of the contribution in such manner as the State Government may, from time to time, determine.]

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[1] Sub-section (*3*) was substituted for the original by Bom. 32 of 1952, s. 3 (*1*).
[2] These words were inserted, *ibid*, s. 3 (*2*).
[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[4] These words were inserted by Bom. 32 of 1952, s. 4.
[5] This section was inserted by Bom. 46 of 1951, s. 5.

Absorption of existing staff of Bombay Provincial Housing Board by the Board.

14. (*1*) The Board shall take over and employ such of the existing staff serving for the purposes of the Bombay Provincial Housing Board constituted by Government Resolution, Political and Services Department, No. 459/46 dated 18th January 1947 as the [1][State] Government may direct and every person so taken over and employed shall be subject to the provisions of this Act and the regulations made thereunder :

Provided—

(*a*) that during the period of such employment all matters relating to the pay, leave, retirement, allowances, pensions, provident fund and other conditions of service of the members of the said staff shall be regulated by the Bombay Civil Services Rules or such other rules as may from time to time be made by the [1][State] Government ;

(*b*) that any such member shall have a right of appeal to the [1][State] Government against any order of reduction, dismissal or removal from service, fine or any other punishment.

(*2*) All permanent servants of the said staff taken over and employed by the Board under sub-section (*1*) shall have a lien on their posts in the service of the [1][State] Government and the period of their service under the Board shall on their reversion to the service of the [1][State] Government, be counted for their increments, pension and other matters relating to their service.

General disqualification of all officers and servants.

15. No person who has directly or indirectly by himself or his partner or agent any share or interest in any contract, by or on behalf of the Board, or in any employment under, by or on behalf of the Board otherwise than as an officer or servant thereof, shall become or remain an officer or servant of the Board.

Appointment of Committees.

16. (*1*) The [1][State] Government may appoint a Housing Advisory Committee. The functions of the Housing Advisory Committee shall be advisory and such as may be determined by the [1][State] Government.

(*2*) Subject to any rules made under section 66, the Board may from time to time appoint one or more other Committees for the purpose of securing the efficient discharge of its functions and in particular for the purpose of securing that the said functions are exercised with due regard to the circumstances and requirements of particular local areas

Conduct of Business.

Meetings of Board.

17. The Board shall meet and shall from time to time make such arrangements with respect to the day, time, notice, management and adjournment of its meetings as it thinks fit, subject to the following provisions, namely :—

(*a*) an ordinary meeting shall be held once at least every fortnight,

(*b*) the Chairman may, whenever, he thinks fit, call special meetings,

(*c*) every meeting shall be presided over by the Chairman and in his absence, by any member chosen by the meeting to preside for the occasion,

(*d*) all questions at any meeting shall be decided by a majority of the members present and in case of equality of votes, the person presiding shall have and exercise a second or casting vote,

(*e*) the minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

Procedure of Committees.

18. (*1*) The Housing Advisory Committee shall meet to discharge the functions assigned to it in such manner as may be directed by the [1][State] Government.

(*2*) Any other Committee appointed under sub-section (*2*) of section 16 shall meet to discharge the functions assigned to it in such manner as may be directed by the Board.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Contracts.

Power to make contracts.

19. The Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.

Execution of contract.

20. (*1*) Every contract shall be made on behalf of the Board by the Chairman :

Provided that—

(*a*) no contract involving an expenditure of rupees fifteen lacs and more shall be made without the previous sanction of the [1][State] Government,

(*b*) no contract involving an expenditure of rupees three thousand and more shall, subject to clause (*a*) above, be made without the previous sanction of the Board.

(*2*) Sub-section (*1*) shall apply to every variation or abandonment of a contract or estimate as well as to an original contract or estimate.

Delegation of Board's power to sanction contracts.

21. Subject to any rules which the [1][State] Government may make in this behalf, the Board may by order direct that the power conferred on it under section 20 to sanction a contract shall be exercised by the Housing Commissioner or any other officer specified by it in the order.

Further provisions as to execution of contracts.

22. (*1*) Every contract by the Chairman on behalf of the Board shall, subject to the provisions of this section, be entered into in such manner and form as may be prescribed.

(*2*) A contract not executed as provided in this section and the rules made thereunder shall not be binding on the Board.

CHAPTER III.

HOUSING SCHEMES.

Duty of Board to undertake housing schemes.

23. Subject to the provisions of this Act and subject to the control of the [1][State] Government, the Board may incur expenditure and undertake works in any area to which this act applies for the framing and execution of such housing schemes as it may consider necessary from time to time [2][or as may be entrusted to it by the [1][State] Government.]

Matters to be provided for by housing schemes.

24. Notwithstanding anything contained in any other law for the time being in force, a housing scheme may provide for all or any of the following matters, namely :—

(*a*) the acquisition by purchase, exchange or otherwise of any property necessary for or affected by the execution of the scheme ;

(*b*) The laying or relaying out of any land comprised in the scheme ;

(*c*) the distribution or redistribution of sites belonging to owners of property comprised in the scheme ;

(*d*) the closure or demolition of dwellings or portions of dwellings unfit for human habitation ;

(*e*) the demolition of obstructive buildings or portions of buildings ;

(*f*) the construction and reconstruction of buildings ;

(*g*) the sale, letting or exchange of any property comprised in the scheme ;

(*h*) the construction and alteration of streets and back lanes ;

(*i*) provision of the draining, water-supply and lighting of the area included in the scheme ;

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] These words were inserted by Bom. 19 of 1949, s. 2.

(*j*) the provision of parks, playing-fields and open spaces for the benefit of any area comprised in the scheme or any adjoining area, and the enlargement of existing parks, playing-fields, open spaces and approaches ;

(*k*) the provision of sanitary arrangements required for the area comprised in the scheme, including the conservation and prevention of any injury or contamination to rivers or other sources and means of water supply ;

(*l*) the provision of accommodation for any class of inhabitants ;

(*m*) the advance of money for the purposes of the scheme ;

(*n*) the provision of facilities for communication and transport ;

(*o*) the collection of such information and statistics as may be necessary for the purposes of this Act ;

(*p*) any other matter for which, in the opinion of the [1][State] Government, it is expedient to make provision with a view to provide housing accommodation and to the improvement or development of any area comprised in the scheme or any adjoining area or the general efficiency of the scheme.

Explanation.—For the purposes of this section, the [1][State] Government may, on the recommendation of the Board, by notification in the *Official Gazette*, specify such area surrounding or adjoining the area included in a housing scheme to be the adjoining area.

No housing scheme to be made for area included in improvement scheme or be inconsistent with town planning scheme.

25. (*1*) No housing scheme shall be made under this Act for any area for which an improvement scheme has been sanctioned by the [1][State] Government under [2][any enactment for the time being in force for the constitution of a municipal corporation for any area in the [3][State] of Bombay], nor any housing scheme made under this Act contain anything which is inconsistent with any of the matters included in a town planning scheme sanctioned by the [1][State] Government under the Bombay Town Planning Act, 1915. Bom. I of 1915.

(*2*) If any dispute arises whether a housing scheme made under this Act includes any area included in an improvement scheme sanctioned under [4][any such enactment as aforesaid] or contains anything inconsistent with any matter included in a town planning scheme sanctioned under the Bombay Town Planning Act, 1915, the decision of the [1][State] Government shall be final. Bom. I of 1915

Preparation and submission of annual housing programme, budget and establishment schedule.

26. (*1*) Before the first day of December in each year, the Board shall prepare and forward—

(*i*) a programme,

(*ii*) a budget for the next year,

(*iii*) a schedule of the staff of officers and servants already employed and to be employed during the next year,

to the [1][State] Government in such form as may be prescribed.

(*2*) The programme shall contain—

(*a*) such particulars of housing schemes which the Board proposes to execute whether in part or whole during the next year as may be prescribed ;

(*b*) the particulars of any undertaking which the Board proposes to organize or execute during the next year for the purpose of the production of building materials ; and

(*c*) such other particulars as may be prescribed.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words and figures " Chapter XII-A of the City of Bombay Municipal Act, 1888 " by Bom. 59 of 1949, s. 491, App. III.

[3] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.

[4] These words were substituted for the words and figures " the City of Bombay Municipal Act, 1888 " by Bom. 59 of 1949, s. 491, App. III.

(*3*) The budget shall contain a statement showing the estimated receipts and expenditure on capital and revenue accounts for the next year.

Programme to be published for inviting suggestions and objections.

27. (*1*) The Board shall before forwarding the programme to the [1][State] Government under section 26 publish a draft of the programme in the *Official Gazette* and in such other manner as may be prescribed.

(*2*) If within three weeks from the date of such publication any person communicates in writing to the Board any suggestion or objection relating to such programme the Board shall consider such suggestion or objection and may modify such programme as it thinks fit.

(*3*) The Board shall then forward the programme, the budget and the schedule of the staff of officers and servants to the [1][State] Government for sanction as required by section 26.

Sanction to programme, budget and establishment schedule.

28. The [1][State] Government may sanction the programme, the budget and the schedule of the staff of officers and servants forwarded to it with such modifications as it deems fit. [2][The programme, the budget and the schedule of the staff so sanctioned shall be laid before each House of the State Legislature as soon as may be after the programme is published.]

Publication of sanctioned programme.

29. The [1][State] Government shall publish the programme sanctioned by it under section 28 in the *Official Gazette*.

Supplementary programme and budget.

30. The Board may, at any time, during the year, in respect of which a programme has been sanctioned under section 28, submit a supplementary programme and budget to the [1][State] Government and the provisions of sections 27, 28 and 29 shall apply to such supplementary programme.

Variation of programme by Board after it is sanctioned.

31. The Board may at any time vary any programme or any part thereof included in the programme sanctioned by the [1][State] Government :

Provided that no such variation shall be made if it involves an expenditure in excess of 10 per cent. of the amount as originally sanctioned for the execution of any housing scheme included in such programme or affects its scope or purpose.

Sanctioned housing schemes to be executed.

32. After the programme has been sanctioned and published by the [1][State] Government under sections 28 and 29 the Board shall, subject to the provisions of section 31, proceed to execute the housing schemes included in the programme.

Publication of housing scheme in the *Official Gazette*.

33. (*1*) Before proceeding to execute any housing scheme under section 32 the Board shall, by notification in the *Official Gazette*, publish the scheme. The notification shall specify that the plan, showing the area which it is proposed to include in the housing scheme and the surrounding lands, shall be open to inspection of the public at all reasonable hours at the office of the Board.

(*2*) If within two weeks from the date of the publication of the housing scheme any person communicates in writing to the Board any suggestion or objection relating to the scheme, the Board shall consider such suggestion or objection and may modify the scheme as it thinks fit.

(*3*) The Board shall then by notification in the *Official Gazette* publish the final scheme. The notification shall specify that the plan, showing the area included in the final scheme and the surrounding lands and other particulars as may be prescribed shall be open to inspection of the public at all reasonable hours at the office of the Board.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This portion was added by Bom. 32 of 1952, s. 5.

(*4*) The publication of a notification in the *Official Gazette* under sub-section (*3*) shall be conclusive evidence that the said scheme has been duly framed.

Transfer to the Board for purposes of housing scheme of land vested in the Corporation, or a municipality or local board.

34. (*1*) Whenever any street, square or other land, or any part thereof, which—

(*a*) is situated in [1][Greater Bombay] and is vested in the Municipal Corporation of [1][Greater Bombay], or

(*b*) is situated in any part of a municipality constituted under the Bombay Municipal Boroughs Act, 1925, or the Bombay District Municipal Act, 1901, and is vested in that municipality, or Bom. XVIII of 1925.

(*c*) is situated in any area included within the jurisdiction of a local board constituted under the Bombay Local Boards Act, 1923, and is vested in that local board, Bom. III of 1901. Bom. VI of 1923.

is within the area included in the programme sanctioned by the [2][State] Government and is required for the purposes of such housing scheme, the Board shall give notice accordingly to the Corporation or municipality or local Board, as the case may be.

(*2*) Where the Corporation, municipality or local Board concurs, such street, square or other land or part thereof shall vest in the Board.

(*3*) Where there is any dispute the matter shall be referred to the [2][State] Government. The [2][State] Government shall, after hearing the Corporation, municipality or local board concerned, decide the matter. The decision of the [2][State] Government shall be final. If the [2][State] Government decides that such street, square or land shall vest in the Board, it shall vest accordingly.

(*4*) Nothing in this section shall affect the rights or powers of the Corporation, municipality or local board in or over any drain or water work in such street, square or land.

Compensation in respect of land vested in the Board.

35. (*1*) Where any land vests in the Board under the provisions of section 34 and the Board makes a declaration that such land shall be retained by the Board only until it revests in the Corporation, the municipality or the local board as part of a street or an open space under section 38, no compensation shall be payable by the Board to the Corporation, the municipality or the local board, as the case may be, in respect of that land.

(*2*) Where any land vests in the Board under section 34 and no declaration is made under sub-section (*1*) in respect of the land, the Board shall pay to the Corporation, the municipality or the local board, as the case may be, as compensation a sum equal to the value of such land.

(*3*) If, in any case where the Board has made a declaration in respect of any land under sub-section (*1*), the Board retains or disposes of the land contrary to the terms of the declaration so that the land does not revest in the Corporation, the municipality or the local board, as the case may be, the Board shall pay to the Corporation, the municipality or the local board compensation in respect of such land in accordance with the provisions of sub-section (*2*).

Power of Board to turn or close public street vested in it.

36. (*1*) The Board may turn, divert, discontinue the public use of, or permanently close, any public street vested in it or any part thereof.

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[1] These words were substituted for the words "the City of Bombay" by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*2*) Whenever the Board discontinues the public use of, or permanently closes, any public street vested in it or any part thereof, it shall ,as far as practicable, provide some other reasonable means of access to be substituted in lieu of the use, by those entitled, of the street or part thereof and pay reasonable compensation to every person who is entitled, otherwise than as a mere member of the public, to use such street or part as a means of access and has suffered damage from such discontinuance or closing.

(*3*) In determining the compensation payable to any person under sub-section (*2*) the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street at or about the same time that the public street or part thereof, on account of which the compensation is paid, is discontinued or closed.

(*4*) When any public street vested in the Board is permanently closed under sub-section (*1*), the Board may sell or lease so much of the same as is no longer required.

Reference to Tribunal in case of dispute under section 35 or 36.

37. If there is any dispute as to whether any compensation is payable under section 35 or as to the amount of compensation payable under section 35 or section 36, as the case may be, the matter shall be referred to the Tribunal.

Vesting in Corporation, municipality or local board of streets laid out or altered and open space provided by the Board under housing scheme.

38. (*1*) Whenever the Provincial Government is satisfied—

(*a*) that any street laid out or altered by the Board has been duly levelled, paved, metalled, flagged, channelled, sewered and drained in the manner provided in the programme sanctioned by the Provincial Government under section 28, and

(*b*) that such lamps, lamp-posts and other appartuas as the Corporation, the municipality or the local board, as the case may be, considers necessary for the lighting of such street and as ought to be provided by the Board have been so provided, and

(*c*) that water and other sanitary conveniences have been duly provided in such street,

the Provincial Government may declare the street to be a public street, and the street shall thereupon vest in the Corporation, municipality or local board, as the case may be, and shall thenceforth be maintained, kept in repair, lighted and cleaned by the Corporation, municipality or local board.

(*2*) When any open space for purposes of ventilation or recreation has been provided by the Board in executing any housing scheme, it shall on completion be transferred to the local authority concerned, by resolution of the Board, and shall thereupon vest in, and be maintained at the expense of, the local authority :

Provided that the local authority may require the Board before any such open space is so transferred to enclose, level, turf, drain and lay-out such space and provide footpaths therein, and if necessary, to provide lamps and other apparatus for lighting it.

(*3*) If any difference of opinion arises between the Board and the Corporation, municipality or local board in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the Provincial Government whose decision shall be final.

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Other duties of the Board.

39. It shall be the duty of the Board to take measures with a view to expediting and cheapening construction of buildings and the Board may for that purpose do all things for—

(*a*) unification, simplification and standardisation of building materials ;

(*b*) encouraging pre-fabrication and mass production of house com onents ;

(*c*) organising or undertaking the production of building materials required for the housing schemes ;

(*d*) encouraging reserach for discovering cheap building materials and evolving new methods of economic construction ;

(*e*) securing a steady and sufficient supply of workmen trained in the work of construction of buildings.

Board to assume management of requisitioned lands.

40. The Board shall, subject to the general control of the Provincial Government, assume management of all such lands requisitioned by or under the authority of the Provincial Government and continued subject to requisition under the Requisitioned Land (Continuance of Powers) Act, 1947, and also of such lands requisitioned by or under the authority of the Provincial Government under the Bombay Land Requisition Act, 1948, as the Provincial Government may direct. XVII of 1947. Bom. XXX III of 1948.

Reconstitution of plots.

41. A housing scheme may provide—

(*a*) for the formation of a reconstituted plot by the alterations of the boundaries of an original plot ;

(*b*) with the consent of the owners that two or more original plots each of which is held in ownership in severalty or in joint ownership shall, with or without alteration of boundaries be held in ownership in common as a reconstituted plot ;

(*c*) for the allotment of a plot to any owner dispossessed of land in furtherance of the housing scheme ; and

(*d*) for the transfer of ownership of a plot from one person to another.

Power to exempt schemes from provisions of sections 26 to 33.

41A. [1][The Provincial Government may, by general or special order published in the *Official Gazette*, exempt any housing scheme entrusted by it to the Board from all or any of the provisions of sections 26 to 33 (both inclusive) subject to such conditions, if any, as it may impose or may direct that any such provision shall apply to such scheme with such modifications as may be specified in the order.]

CHAPTER IV.

Acquisition and Disposal Land

Power to purchase or lease by agreement.

42. (*1*) The Board may enter into an agreement with any person for the acquisition from him by purchase, lease or exchange, of any land which is needed for the purposes of a housing scheme or any interest in such land or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith.

(*2*) The Board may also take steps for the compulsory acquisition of any land or any interest therein required for the execution of a housing scheme in the manner provided in the Land Acquisition Act, 1894, as modified by this Act and the acquisition of any land or any interest thereto for the purposes of this Act shall be deemed to be acquisition for a public purpose within the meaning of the Land Acquisition Act, 1894. I of 1894. I of 1894.

Betterment charges.

43. (*1*) When by the making of a housing scheme any land in the area comprised in the scheme will in the opinion of the Board be increased in value, the Board in framing the scheme may declare that betterment charges shall be payable by the

[1] Section 41A was inserted by Bom. 19 of 1949, s. 3.

owner of the land or any person having an interest therein in respect of the increase in value of the land from the execution of the scheme.

(2) Such increase in value shall be the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of the buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner and the betterment charges shall be one-half of such increase in value.

(3) Such betterment charges shall also be leviable in respect of any land not comprised in the scheme but adjacent to the area comprised in the scheme.

Notice to persons liable for betterment charges.

44. (1) The Board shall give notice in the prescribed form to any person who is the owner of or has interest in the land in respect of which the betterment charges are to be levied and shall give such person an opportunity to be heard.

(2) After hearing such person or if such person fails to appear after the expiry of the period within which such person is required to appear before the Board, the Board shall proceed to assess the amount of betterment charges.

(3) Where the assessment of betterment charges proposed by the Board is accepted by the person concerned within the period prescribed, the assessment shall be final.

(4) If the person concerned does not accept the assessment proposed by the Board, the matter shall be referred to the Tribunal.

(5) The Tribunal shall, after holding an inquiry and after hearing the person concerned, assess the amount of the betterment charges payable by the person.

Agreement for payment of betterment charges.

45. (1) Any person liable to pay betterment charges in respect of any land may at his option, instead of paying the same to the Board, execute an agreement with the Board to leave the payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at such rate as may be prescribed.

(2) Every payment due from any person in respect of betterment charges and every charge referred to in sub-section (1) shall, notwithstanding anything contained in any other enactment and notwithstanding the execution of any mortgage or charge, created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land.

Recovery of betterment charges.

46. All sums payable in respect of any land by any person in respect of betterment charges under section 43 or by any person under an agreement under section 45 shall be recoverable on behalf of the Board as an arrear of land revenue.

Power to dispose of land.

47. Subject to any rules made by the Provincial Government under this Act, the Board may retain, lease, sell, exchange or otherwise dispose of, any land, building or other property vesting in it and situate in the area comprised in any housing scheme sanctioned under this Act.

Disputes regarding reconstitution of plots.

48. (1) Where by the making of a housing scheme, any plots comprised in the area included in the scheme are reconstituted or any person is dispossessed, any person affected by such reconstitution or dispossession may apply to the Board for compensation. The Board may after making such inquiry as it thinks fit decide whether the applicant is entitled to any compensation and if so to what extent. If the person is dissatisfied with the decision of the Board in the matter, he may inform the Board accordingly. The Board shall thereupon refer the matter to the Tribunal.

(2) The Tribunal shall then after making an inquiry determine the amount of compensation and direct the Board to pay the same to the person entitled.

CHAPTER V.

TRIBUNAL.

Constitution of the Tribunal.

49. (*1*) The Tribunal shall consist of a President and two assessors. In Greater Bombay the President shall be such Judge of the Bombay City Civil Court as may be selected by the Provincial Government and elsewhere the District Judge. The assessors shall be appointed by the Provincial Government.

(*2*) Each assessor of the Tribunal shall receive such remuneration as the Provincial Government may determine. The remuneration shall be paid by the Board to the President of the Tribunal for distribution.

Duties of the Tribunal.

50. The Tribunal shall—

(*a*) decide whether any compensation is payable under section 35 ;

(*b*) decide the amount of compensation in matters referred to it under section 37 ;

(*c*) decide disputes relating to betterment charges referred to it under section 44 ;

(*d*) decide disputes relating to the reconstitution of plots referred to it under section 48 and the amount of compensation to be awarded in consequence thereof.

(*e*) decide such other matters as may be prescribed by rules made in this behalf.

Powers of President.

51. (*1*) In the hearing and decision of any matters referred to the Tribunal under this Act,—

(*a*) if there is any disagreement between the President and the assessors of the Tribunal on a point of fact, the opinion of the majority shall prevail ; and

(*b*) if there is any disagreement between the President and the assessors of the Tribunal on a point of law or procedure, the assessors shall be bound by the opinion of the President.

(*2*) The decision of the President as to what is the question of law or fact shall be final.

Powers of and procedure before Tribunal.

52. (*1*) In making inquiries under sections 35, 37, 44 and 48, the Tribunal shall have and exercise the same powers as are vested in a Civil Court in respect of—

(*a*) a proof of facts by affidavits ;

(*b*) summoning and enforcing the attendance of any person and examining him on oath ;

(*c*) compelling the production of documents ; and

(*d*) issuing commissions for the examination of witnesses.

(*2*) In all proceedings before the Tribunal, the Tribunal shall follow the procedure as may be prescribed by rules made by the Provincial Government in this behalf.

(*3*) Every order made by the Tribunal for the payment of money except that for the recovery of which provision has been made in section 46 and for the delivery of the possession or removal of any structure shall be enforced by the Bombay City Civil Court in Greater Bombay and elsewhere by the District Court in the jurisdiction of which the land comprised in the housing scheme is situate as if it was the decree of the said Court.

(*4*) The proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code. XLV of 1860.

Decision of Tribunal to be final.

53. The decision of the Tribunal on any matter referred to it under this Act shall be final and shall not be questioned in any court of law

[1][CHAPTER V-A.

POWER TO EVICT PERSONS FROM BOARD PREMISES.

Power to evict certain persons from Board premises.

53A. (*1*) If the competent authority is satisfied,—

(*a*) that the person authorised to occupy any Board premises has, whether before or after the commencement of the Bombay Housing Board (Amendment) Act, 1952,— Bom. XXXII of 1952.

(*i*) not paid rent lawfully due from him in respect of such premises for a period of more than two months, or

(*ii*) sub-let, without the permission of the Board, the whole or any part of such premises, or

(*iii*) otherwise acted in contravention of any of the terms, express or implied under which he is authorised to occupy such premises, or

(*b*) that any person is in unauthorised occupation of any Board premises

the competent authority may, notwithstanding anything contained in any law for the time being in force, by notice served (*i*) by post, or (*ii*) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed, order that that person as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the date of the service of the notice.

[2][(*1A*) Before an order under sub-section (*1*) is made against any person the competent authority shall inform the person by notice in writing of the grounds for which the proposed order is to be made and give him a reasonable opportunity of tendering an explanation and producing evidence, if any, and to show cause why such order should not be made, within a period to be specified in such notice. If such person makes an application to the competent authority for extension of the period specified in the notice, the competent authority may grant the same on such terms as to payment and recovery of the amount claimed in the notice as he deems fit. Any written statement put in by such person and documents produced in pursuance of such notice shall be filled with the record of the case and such person shall be entitled to appear before the officer proceeding in this connection by advocate, attorney or pleader. Such notice in writing shall be served in the manner provided for service of notice under sub-section (*1*).]

(*2*) If any person refuses or fails to comply with an order made under sub-section (*1*), the competent authority may evict that person from, and take possession of, the premises and may for that purpose use such force as may be necessary.

(*3*) If a person, who has been ordered to vacate any premises under sub-clause (*i*) or (*iii*) of clause (*a*) of sub-section (*1*) within one month of the date of service of the notice or such longer time as the competent authority may allow, pays to the Board the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent authority, as the case may be, the competent authority shall, in lieu of evicting such person under sub-section (*2*), cancel its order made under sub-section (*1*) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

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[1] Chapter V-A containing sections 53A-53-D was inserted by Bom. 32 of 1952, s. 6.
[2] Sub-section (*1A*) was inserted by Bom. 25 of 1955, s. 3 (*1*).

[1][*Explanation.*—For the purposes of this section and section 53B, the expression "unauthorized occupation", in relation to any person authorized to occupy any Board premises, includes the continuance in occupation by him or by any person claiming through or under him of the premises after the authority under which he was allowed to occupy the premises has been duly determined.]

Power to recover rent or damages as arrears of land revenue.

53B. (*1*) Subject to any rules made by the State Government in this behalf and without prejudice to the provisions of section 53A, where any person is in arrears of rent payable in respect of any Board premises, the competent authority may, by notice served, (*i*) by post or (*ii*) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed, order that person to pay the same within such time not less than ten days as may be specified in the notice. If such person refuses or fails to pay the arrears of rent within the time specified in the notice, such arrears may be recovered as arrears of land revenue.

(*2*) Where any person is in unauthorised occupation of any Board premises, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the premises as it may deem fit, and may by notice serves (*i*) by post, or (*ii*) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed, order that person to pay the damages within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue.

[2][(*3*) No order shall be made under sub-section (*2*) until after the issue of a notice in writing to the person calling on him to show cause, within a reasonable period to be specified in such notice, why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same have been considered by the competent authority.]

Rent to be recovered from deductions from salary or wages in certain cases.

53BB. (*1*) Without prejudice to the provisions of section 53A, any person who is an employee of the State Government or a local authority and who has been allotted any Board premises, may execute an agreement in favour of the State Government providing that the State Government or the local authority, as the case may be, under or by whom he is employed, shall be competent to deduct from the salary or wages payable to him such amount as may be specified in the agreement and to pay the amount so deducted to the Board in satisfaction of the rent due by him in rsepect of the Board premises allotted to him.

(*2*) On the execution of such agreement, the State Government or a local authority, as the case may be, shall, if so required by the Board by requisition in writing make the deduction of the amount specified in the requisition from the salary or wages of the employee specified in the requisition in accordance with the agreement and pay the amount so deducted to the Board.

Appeal.

53C. (*1*) Any person aggrieved by an order of the competent authority under section 53A or section 53B may, within one month of the date of the service of the notice under section 53A or section 53B as the case may be, prefer an appeal to the State Government :

[1] The Explanation was added, by Bom. 25 of 1955, s. 3 (*2*).
[2] Sub-section (*3*) was added, *ibid.*, s. 4.

Provided that the State Government may entertain the appeal after the expiry of the said period of one month, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) On receipt of an appeal under sub-section (*1*), the State Government may, after calling for a report from the competent authority, and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the State Government shall be final.

(*3*) Where an appeal is preferred under sub-section (*1*), the State Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

Bar of jurisdiction of Civil Courts.

53D. No order made by the State Government or the competent authority in the exercise of any power conferred by or under this Chapter shall be called in question in any court and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.]

CHAPTER VI.

FINANCE, ACCOUNTS AND AUDIT.

Expenditure etc. till the Board is established.

54. (*1*) All debts and expenditure incurred, all contracts entered into and all matters and things engaged to be done by, with or for the [1][State] Government for the purposes of the Bombay Provincial Housing Board constituted by Government Resolution, Political and Services Department, No. 459/46, dated 18th January 1947 before and up to the date of the establishment of the Board under this Act shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board ; and all suits and other legal proceedings instituted or which may be instituted by or against the [1][State] Government shall be continued or instituted by or against the Board, as the case may be.

(*2*) All expenditure which the [1][State] Government shall, not later than six months from the date of the establishment of the Board, declare to have been incurred on capital account in connection with the purposes of this Act shall be deemed to be a loan advanced to the Board on the date of such declaration.

(*3*) All the assets entrusted to the Bombay Provincial Housing Board referred to in sub-section (*1*) for the purposes referred to in the Government Resolution specified in the said sub-section and all assets acquired by the expenditure referred to in sub-section (*2*) shall upon the declaration made by the [1][State] Government under sub-section (*2*) vest in the Board for the purposes of this Act.

I of 1894.

(*4*) All proceedings under the Land Acquisition Act, 1894, pending on the date of the coming into force of this Act in any area for the acquisition of land situated in the said area for the purposes of the Bombay Provincial Housing Board referred to in sub-section (*1*) shall be deemed to be proceedings for acquisition of such land for the purposes of the Board under this Act.

Board's fund.

55. (*1*) The Board shall have its own fund.

(*2*) The Board may accept grants, subventions, donations and gifts from the Central or [1][State] Government or a local authority or any individual or body, whether incorporated or not for all or any of the purposes of this Act.

(*3*) All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board, all rents, betterment charges and all interest, profits and other moneys accruing to the Board shall constitute the fund of the Board.

(*4*) Except as otherwise directed by the [1][State] Government, all moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in the Reserve Bank of India or in any scheduled bank or invested in such securities as may be approved by the [1][State] Government.

(*5*) Such account shall be operated upon by such officers as may be authorised by the Board.

II of 1934.

Explanation.—For the purposes of this section, the Reserve Bank of India shall mean the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934, and a scheduled bank shall mean a bank included in the Second scheduled to the said Act.

Application of the fund.

56. All property, fund and all other assets vesting in the Board shall be held and applied by it, subject to the provisions and for the purposes of this Act.

Expenditure in case of urgency

57. (*1*) Where in the opinion of the Board, circumstances of extreme urgency have arisen, it shall be lawful for the Board to make in any year,—

(*a*) recurring expenditure not exceeding twenty-five thousand rupees,

[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

(*b*) non-recurring expenditure not exceeding one lac of rupees, notwithstanding the fact that such expenditure has not been included in its annual programme or supplementary programme sanctioned by the [1][State] Government or the variation of the programme made under section 31.

(*2*) where any sum is expended under circumstances of extreme urgency as provided in sub-section (*1*), a report thereof indicating the source from which it is proposed to meet the expenditure shall be made by the Board as soon as practicable to the [1][State] Government.

Subventions and loans to the Board.

58. (*1*) The [1][State] Government may from time to time make subventions to the Board for the purposes of this Act on such terms and conditions as the [1][State] Government may determine.

(*2*) The [1][State] Government may from time to time advance loans to the Board on such terms and conditions not inconsistent with the provisions of this Act as the [1][State] Government may determine.

Power of Board to borrow.

59. (*1*) The Board may from time to time, with the previous sanction of the [1][State] Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf borrow any sum required for the purposes of this Act.

(*2*) The rules made by the [1][State] Government for the purposes of this section may empower the Board to borrow by the issue of debentures and to make arrangements with bankers.

(*3*) All debentures issued by the Board shall be in such form as the Board, with the sanction of the [1][State] Government, may from time to time determine.

(*4*) Every debenture shall be signed by the Chairman and one other member of the Board.

(*5*) Loans borrowed and debentures issued under this section may be guaranteed by the [1][State] Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the [1][State] Government.

Accounts and audit.

60. (*1*) The Board shall cause to be maintained proper books of accounts and such other books as the rules may require and shall prepare in accordance with the rules an annual statement of accounts.

[2][(*2*) The Board shall cause its accounts to be audited annually by such person as the [1][State] Government may direct.]

(*3*) As soon as the accounts of the Board have been audited, the Board shall send a copy thereof together with a copy of the report of the auditor thereon to the [1][State] Government ; and shall cause the accounts to be published in the prescribed manner and place copies thereof on sale at a reasonable price.

(*4*) The Board shall comply with such directions as the [1][State] Government may after perusal of the report of the auditor think fit to issue.

Concurrent and special audits of accounts.

[3][**60A.** (*1*) Notwithstanding anything contained in section 60, the State Government may order that there shall be a concurrent audit of the accounts of the Board by such person as it thinks fit. The State Government may also direct a special audit to be made by such person as it thinks fit of the accounts of the Board relating to any particular transaction or a class or series of transactions or to a particular period.

(*2*) When an order is made under sub-section (*1*), the Board shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (*1*) such information as the said person may require for the purpose of audit.]

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This sub-section was substituted for the original by Bom. 19 of 1949, s. 4.
[3] Section 60A was inserted by Bom. 49 of 1950, s. 2.

CHAPTER VII.

MISCELLANEOUS.

Reports.

61. The Board shall, before such date and in such form and at such interval as may be prescribed, submit to the [1][State] Government a report on such matters as may be prescribed, and the [1][State] Government shall cause such report to be published in the *Official Gazette*. [2][Every such report shall be laid before each House of the State Legislature as soon as may be after it is published.]

Other statements and returns.

62. The Board shall also submit to the [1][State] Government such statistics, returns, particulars or statements in regard to any proposed or existing housing schemes at such times and in such form and manner as may be prescribed or as the [1][State] Government may from time to time direct.

Power of entry.

63. The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistants or workmen, enter into or upon any land, in order—

(*a*) to make any inspection, survey, measurement, valuation or inquiry;

(*b*) to take levels;

(*c*) to dig or bore into the sub-soil;

(*d*) to set boundaries and intended lines of work;

(*e*) to make such levels, boundaries and lines of works and cutting trenches; or

(*f*) to do any other thing;

whenever it is necessary to do so for any of the purposes of this Act or any rules made or scheme sanctioned thereunder:

Provided as follows:

(*i*) no such entry shall be made between sunset and sunrise;

(*ii*) no dwelling house and no public building which is used as a dwelling place, shall be so entered, unless with the consent of the occupier thereof, and without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry;

(*iii*) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove themselves to some part of the premises where their privacy will not be disturbed;

(*iv*) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

Notice of suit against Board.

64. No person shall commence any suit against the Board or against any officer or servant of the Board or any person acting under the orders of the Board, for anything done or purporting to have been done in pursuance of this Act, without giving to the Board, officer or servant or person two months' previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of.

And in the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amounts so tendered and shall pay all costs incurred by the defendant after such tender.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This portion was added by Bom. 32 of 1952, s. 7.

Triennial valuation of assets and liabilities of the Board.

65. The Board shall triennially have a valuation of its assets and liabilities made by a valuer appointed with the approval of the [1][State] Government:

Provided that it shall be open to the [1][State] Government to direct a valuation to be made at any time it may consider necessary.

Power to make rules.

66. (*1*) The [1][State] Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generallity of the foregoing power such rules may be made for all or any of the following purposes, namely :—

(*a*) the allowances of members and remuneration and conditions of service of the Chairman under section 7 ;

[2][*aa*] the rates of subscriptions and contributions and other conditions of the provident fund established under section 13A ;]

(*b*) the manner and form in which contracts shall be entered into under section 22 ;

(*c*) the form of annual housing programme, budget and schedule of staff of officers and servants, particulars of housing schemes and other particulars to be contained in the programme under section 26 ;

(*d*) the other manner of publication of the draft of the programme under section 27 ;

(*e*) the form of notice under section 44 ;

(*f*) the rate of interest under section 45 ;

(*g*) the other matters to be decided by the Tribunal under section 50 ;

(*h*) the procedure to be followed by the Tribunal under section 52 ;

[3][(*ha*) the forms of notices under sections 53A and 53B and any other manner in which they may be served ;

(*hb*) the procedure to be followed in taking possession of any Board premises under section 53A ;

(*hc*) the manner in which damages under section 53B may be assessed ;

(*hd*) the manner in which appeals may be preferred under section 53C and the procedure to be followed in such appeals ;]

(*i*) the conditions subject to which the Board may borrow any sum under section 59 ;

(*j*) the manner of preparation, maintenance and publication of accounts under section 60 ;

(*k*) the date before which, the form in which, the interval at which and the matters on which reports shall be submitted under section 61 ;

(*l*) the time at which and the form and manner in which statistics, returns, particulars and statements shall be submitted under section 62 ;

[4][(*ll*) the manner in which the Board shall be superseded and reconstituted under section 73B ;]

(*m*) and other matter which is or may be prescribed under this Act.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This clause was inserted by Bom. 46 of 1951, s. 6.
[3] Clauses (*ha*) to (*hd*) were inserted by Bom. 32 of 1952, s. 8.
[4] Clause (*ll*) was inserted by Bom. 49 of 1950, s. 3.

Regulations.

67. The Board may from time to time, with the previous sanction of the [1][State] Government, make regulations consistent with this Act and with any rules made under this Act—

(*a*) for the management and use of buildings constructed under any housing scheme;

(*b*) the principles to be followed in allotment of tenements and premises;

(*c*) the remuneration and conditions of service of the Secretary, Housing Commissioner and other officers and servants of the Board under section 13;

(*d*) for regulating its procedure and the disposal of its business.

Power to make bye-laws.

68. (*1*) The Board may make bye-laws, not inconsistent with this Act, which may be necessary or expedient for the purpose of carrying out its duties and functions under this Act.

(*2*) A bye-law made under this section may provide that a contravention thereof shall be an offence.

(*3*) No by-law made by the Board shall come into force until it has been confirmed by the [1][State] Government with or without modification.

(*4*) All by-laws made under this section shall be published in the *Official Gazette*.

Penalty for contravention of by-laws.

69. Whoever contravenes a by-law made under section 68 shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for obstructing, etc.

70. If any person—

(*a*) obstructs, or molests any person with whom the Board has entered into a contract, in the performance or execution by such person of his duty or of anything which he is empowered or required to do under this Act, or

(*b*) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized under this Act,

he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Penalty for obstructing exercise of powers under Chapter V-A.

[2][**70A.** Any person who obstructs the lawful exercise of any power conferred by or under Chapter V-A shall, on conviction, be punished with fine which may extend to one thousand rupees.]

Authority for prosecution.

71. Unless otherwise expressly provided, no Court shall take cognisance of any offence punishable under this Act except on the complaint of, or upon information received from, the Board or some person authorized by the Board by general or special order in this behalf.

[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] Section 70A was inserted by Bom. 32 of 1952, s. 9.

Members, officers and servants of the Board to be public servants.

72. All members, officers and servants of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Protection of action taken under this Act.

73. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or purported to be done under this Act.

Government's power to give directions to Board.

[1][**73A.** The State Government may give the Board such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act, after giving an opportunity to the Board to state its objections, if any, to such directions and after considering the said objections. It shall be the duty of the Board to comply with such directions.

Default in performance of duty.

73B. (*1*) If the State Government is satisfied that the Board has made default in performing any duty imposed on it by or under this Act, it may fix a period for the performance of that duty.

(*2*) If in the opinion of the State Government the Board fails or neglects to perform such duty within the period so fixed for its performance, it shall be lawful for the State Government, notwithstanding anything contained in section 7, to supersede and reconstitute the Board in the prescribed manner.

(*3*) After the supersession of the Board and until it is reconstituted the powers, duties and functions of the Board under this Act shall be carried on by the State Government or by such officer or officers as the State Government may appoint for this purpose.]

Dissolution of the Board.

74. (*1*) The [2][State] Government may, by notification in the *Official Gazette* declare that with effect from such date as may be specified in the notification, the Board shall be dissolved :

Provided that no such declaration shall be made by the [2][State] Government unless a resolution to that effect has been moved in and passed by the Bombay Legislative Assembly.

(*2*) With effect from the date specified in the notification under sub-section (*1*)—

(*a*) all properties, funds and dues which are vested in or realizable by the Board shall vest in and be realizable by the [2][State] Government,

(*b*) all liabilities enforceable against the Board shall be enforceable against the [2][State] Government to the extent of the properties, funds and dues vested in and realized by the [2][State] Government.

(*3*) Nothing in this section shall affect the liability of the [2][State] Government in respect of loans or debentures guaranteed under sub-section (*5*) of section 59.

Amendment of Bom. III of 1888, Bom. I of 1915 and Bom. XXXI of 1948.

75. The enactments mentioned in the third column of the Schedule appended to this Act are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

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[1] Sections 73A and 73B were inserted by Bom. 49 of 1950, s. 4.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

SCHEDULE.

(*Section* 75.)

Year.	No.	Short title.	Amendments.	
1	2	3	4	
1888	III	The City of Bombay Municipal Act, 1888.	After section 354C, the following new section shall be inserted, namely :— "354CC. Notwithstanding anything contained in this Chapter, no improvement scheme shall be made for any area for which housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948."	No improvement schemes for areas for which housing schemes sanctioned under Bom. LXIX of 1948. Bom. LXIX of 1948.
1915	I	The Bombay Town Planning Act, 1915.	After section 8, the following new section shall be inserted, namely :— "8A. Notwithstanding anything contained in this Act, no town planning scheme shall be made for any area for which a housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948."	No town planning schemes for areas for which housing schemes sanctioned under Bom. LXIX of 1948. Bom. LXIX of 1948.
1948	XXXI	The Bombay Building (Control on Erection) Act, 1948.	After section, 14 the following new section shall be inserted, namely :— "14A. Notwithstanding anything contained in this Act, the [1][State] Government may direct that the powers conferred and duties imposed upon the Controller under this Act, shall in the area in which the Bombay Housing Board Act, 1948, has come into force, be exercised and performed by the Housing Board constituted under the said Act."	Delegation of Controller's powers to Housing Board constituted under Bom. LXIX of 1948. Bom. LXIX of 1948.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

THE BOMBAY CHILDREN ACT, 1948.

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BOMBAY ACT No. LXXI OF 1948.[1]

[THE BOMBAY CHILDREN ACT, 1948.]

[*31st December 1948*]

Amended by Bom. 53 of 1949.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 23 of 1951.
,, ,, ,, 8 of 1954.

An Act to consolidate and amend the law for the custody, protection, treatment, and rehabilitation of children and youthful offenders and for the trial of youthful offenders in the Province of Bombay.

WHEREAS it is expedient to consolidate and amend the law for the custody, protection, treatment and rehabilitation of children and youthful offenders and for the trial of youthful offenders in the Province of Bombay and for certain other purposes specified herein; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Children Act, 1948.

(*2*) It extends to the whole of the [2][State] of Bombay.

Commencement.

2. Section 1 shall come into force at once. The rest of the Act, or any provision thereof, shall come into force in any area on such date as the [3][State] Government may, by notification in the *Official Gazette*, specify.

Saving.

3. The [3][State] Government may, by notification in the *Official Gazette*, direct that all or any of the provisions of the Act shall not apply to any class of children or youthful offenders in the whole of the [2][State] or in any particular area.

Definitions.

4. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "adult" means a person who is not a child;

Bom. XXIII of 1945.

(*b*) "begging" means begging as defined in the Bombay Beggars Act, 1945;

Bom. XI of 1923.

(*c*) "brothel" means a brothel as defined in the Bombay Prevention of Prostitution Act, 1923;

(*d*) "certified school" means an industrial school established or any other school or institution certified by the [3][State] Government under section 25;

(*e*) "child" means a boy or a girl who has not attained the age of sixteen years;

II of 1930.

(*f*) "dangerous drug" means any article defined as "dangerous drug" in the Dangerous Drugs Act, 1930;

(*g*) "final order" means an order passed by a juvenile court or any court employed under section 8 to exercise the powers of a juvenile court, under the following sections, namely:—45 to 47, 71 to 76, 79, 81 to 84, 90 to 92, 101 and 103;

(*h*) "fit person" includes a fit person institution which in relation to the care of any child means any association or body of individuals whether incorporated or not established for or having for its object the reception or protection of children or the prevention of cruelty to children and which undertakes to bring up or to give facilities for bringing up any child entrusted to its care in conformity with the religion of its birth;

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[1]For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 421.
[2]This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[3]This word was substituted for the word "Provincial" *ibid*

(*i*) "guardian" in relation to a child or youthful offender includes any person who in the opinion of the court having cognizance of any proceedings in relation to the child or youthful offender has for the time being the actual charge of, or control over, the said child or youthful offender;

(*j*) "immoral behaviour" includes any act or conduct which is indecent or obscene;

(*k*) "Juvenile Court" means a court established under section 7 of this Act;

(*l*) "place of safety" includes a remand home, or any other suitable place or institution, the occupier or manager of which is willing temporarily to receive a child or where such remand home or other suitable place or institution is not available, in the case of a male child only, a police station in which arrangements are available or can be made for keeping children in custody separately from other offenders:

(*m*) "prescribed" means prescribed by rules made under this Act;

(*n*) "probation of good conduct" means the release of a youthful offender on probation of good conduct on his personal recognizance. The expression 'probation of good conduct order' shall be construed accordingly;

(*o*) "prostitution" means offering of the body for indiscriminate lewdness for hire or otherwise, notwithstanding anything contained in the Bombay Prevention of Prostitution Act, 1923; Bom. XI of 1923.

(*p*) "society" means a body or association of individuals, whether incorporated or not;

(*q*) "supervision" means the placing of a child under the control of a probation officer or other person for the purpose of securing proper care and protection of the child by his parent, guardian, relation or any other fit person to whose care the child has been committed. The expression 'supervision order' shall be construed accordingly;

(*r*) "voluntary home" means any place for the reception of children maintained wholly or partly by voluntary contributions; and

(*s*) "youthful offender" means any child who has been found to have committed an offence.

(*2*) Words and expressions used and not defined in this Act but defined in the Code of Criminal Procedure, 1898, shall have the meanings assigned to them in that Code. V of 1898.

Continuation of proceedings against attaining child on his specified age.

5. For the purposes of this Act, a person shall be deemed to be a child, if at the time of the initiation of any proceedings against him under this Act or at the time of his arrest in connection with which any proceedings are initiated against him under this Act, such person has not attained the age is specified in clause (*e*) of section 4:

Provided that if during the course of the proceedings under this Act such person attains the age specified in the said clause, the proceedings already commenced shall be continued and orders may be passed in respect of such person under this Act as if such person was a child notwithstanding anything to the contrary in this Act.

Reformatory Schools Act, 1897, and certain provisions of Code of Criminal Procedure, 1898, not to apply.

6. The provisions of the Reformatory Schools Act, 1897, and of sections 29B and 399 of the Code of Criminal Procedure, 1898, shall cease to apply to any area in which Parts II to XI of this Act have been brought into operation. VIII of 1897. V of 1898.

PART II.

POWERS AND FUNCTIONS OF COURTS HAVING JURISDICTION UNDER THE ACT.

Juvenile Courts.

7. For the purposes of this Act, the [1][State] Government may, by notification in the *Official Gazette*, establish one or more juvenile courts for any local area.

Courts empowered to exercise powers of juvenile courts.

8. The powers conferred upon a juvenile court under this Act shall, subject to the provisions thereof, be also exercisable by the following courts, whether trying any case originally, or on appeal or in revision, as the case may be—

(*a*) the High Court,
(*b*) a Court of Session,
[2]* * * *
[2]* * * *
(*e*) a salaried Presidency Magistrate,
(*f*) a salaried Magistrate of the First Class.

Powers of juvenile courts and other courts mentioned in section 8.

9. Save as otherwise provided in this Act,—

(*1*) where a juvenile court has been established for any local area, such court shall try all cases in which a child is charged with the commission of an offence and shall deal with and dispose of all other proceedings under this Act, but shall not have power to try any case in which an adult is charged with an offence under Part VI of this Act;

(*2*) where a juvenile court has not been established for any local area, no court other than courts empowered under section 8 to exercise the powers of a juvenile court shall have power to try any case in which a child is charged with the commission of an offence or to deal with or dispose of any other proceeding under this Act.

No joint trial of child and adult in area where juvenile court exists.

10. (*1*) Notwithstanding anything contained in section 239 of the Code of Criminal Procedure, 1898, or any other law for the time being in force, no child shall be charged with or tried for any offence together with an adult if, a juvenile court has been established for the area where the trial of such case is to take place.

V of 1898.

(*2*) If a child is accused of an offence for which under section 239 of the Code of Criminal Procedure, 1898, or any other law for the time being in force, such child and the adult could, but for the provisions of sub-section (*1*), have been tried together the court taking cognizance of the offence shall direct separate trials of the child and the adult; if a juvenile court has been established for the local area, the child shall be tried by the juvenile court and the adult shall be tried separately by a court having jurisdiction to try the offence.

V of 1898.

Procedure in appealable summons cases to be followed by juvenile courts and magistrates' courts in trials of children.

11. A juvenile court and in a case in which a child is not being tried jointly with an adult, a Magistrate empowered under section 8 to exercise the powers of a juvenile court shall, as far as practicable and subject to the provisions of this Act, follow the procedure provided by the Code of Criminal Procedure, 1898, for summary trials in summons cases in which an appeal lies.

V of 1898.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] Clauses (c) and (d) were deleted by Bom. 23 of 1951, s. 2, Schedule—Part III.

Sitting, etc., of juvenile courts, etc.

12. (*1*) A juvenile court shall hold its sittings at such places, on such days and in such manner as may be prescribed.

(*2*) In the trial of a case in which a child is charged with an offence and is not being tried jointly with an adult a court shall, as far as may be practicable, sit in a different building or room from that in which the ordinary sittings of the court are held, or on different days, or at different times from those at which the ordinary sittings of the court are held.

Adult to be committed to sessions in a case to be committed to sessions.

13. In the trial of a case in which a child is being tried together with an adult in accordance with the provisions of this Act, if the magistrate trying the case comes to the conclusion that the case is a fit one for committal to the court of session, he shall separate the case in respect of the child from that in respect of the adult and shall direct the adult alone to be committed to the court of sessions for trial and shall proceed with the trial of the case in respect of the child notwithstanding anything in the Code of Criminal Procedure, 1898, or any other law for the time being in force. V of 1898.

Appearance of legal practitioners before juvenile courts.

14. Notwithstanding anything contained in any law for the time being in force, a legal practitioner shall not be entitled to appear in any case or proceeding before a juvenile court, unless the juvenile court is of opinion that in public interests the appearance of a legal practitioner is necessary in such case or proceeding and authorises, for reasons to be recorded in writing a legal practitioner to appear in such case or proceeding.

Presence of persons in juvenile courts.

15. Save as provided in this Act, no person shall be present at any sitting of a juvenile court except—

(*a*) the members and officers of the court,

(*b*) the parties to the case before the court and other persons directly concerned in the case including the Police Officers,

(*c*) such other persons as the court specially authorises to be present.

Withdrawal of persons from juvenile courts.

16. If at any stage during the course of a trial of a case or proceeding, a juvenile court considers it expedient in the interest of the child to direct any person including the parent, guardian or the spouse of the child, or the child himself to withdraw, the court shall be entitled to give such direction and thereupon such person shall withdraw. If any person refuses to withdraw, the court may take steps to remove him.

Dispensing with attendance of child.

17. If at any stage during the course of the trial of a case or proceeding, the juvenile court is satisfied that the attendance of a child is not essential for the purposes of the hearing of the case or proceeding, the court may dispense with his attendance and proceed with the trial of the case in the absence of the child.

Withdrawal of persons from court when child is examined as witness.

18. If at any stage during the course of a trial of a case or proceeding in relation to an offence against or any, conduct contrary to, decency or morality, a child is summoned as a witness, any court trying the case or holding the proceeding may direct such persons as it thinks fit, not parties to the case or proceeding, their legal advisers and the officers concerned with the case or proceeding to withdraw. Such persons shall then withdraw. If any person refuses to withdraw, the court may take steps to remove him.

Attendance at court of parent of child charged with offence, etc.

19. (*1*) Where a child brought before a court under this Act has a parent or guardian such parent or guardian may in any case, and shall, if he can be found and if he resides within a reasonable distance, be required to attend the court before which any proceeding is held under this Act, unless the court is satisfied that it will be unreasonable to require his attendance.

(*2*) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual charge of, or control over, the child :

Provided that if such parent or guardian is not the father, the attendance of the father may also be required.

(*3*) The attendance of the parent of a child shall not be required under this section in any case where the child was, before the institution of the proceedings, removed from the custody or charge of his parent by an order of a court.

Committal to approved place of child suffering from dangerous disease and its future disposal.

20. (*1*) When a child who has been brought before a court under any of the provisions of this Act is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment, the court may send the child to a remand home or to any other place recognised to be an approved place in accordance with the rules made under this Act for such period as it may think necessary for the required treatment.

III of 1898. IV of 1912.

(*2*) Where a child is found to be suffering from leprosy or is of unsound mind, he shall be dealt with under the provisions of the Lepers Act, 1898, or the Indian Lunacy Act, 1912, as the case may be.

(*3*) Where a court has taken action under sub-section (*1*) in the case of a child suffering from an infectious or contagious disease, the court before restoring the said child to his partner in marriage, if there has been such or to the guardian, as the case may be, shall where it is satisfied that such action will be in the interests of the said child call upon his partner in marriage or the guardian, as the case may be, to satisfy the court by submitting to medical examination that such partner or guardian will not re-infect the child in respect of whom the order has been passed.

Factors to be taken into consideration in passing orders by courts.

21. For the purpose of any order which a court has to pass under this Act, the court shall have regard to the following factors :—

(*a*) the character and age of the child,

(*b*) the circumstances in which the child is living,

(*c*) the reports made by the Probation officer, and

(*d*) such other matters as may, in the opinion of the court, require to be taken into consideration in the interests of the child :

Provided that where a youthful offender is found to have committed an offence, the above factors shall be taken into consideration after the court has recorded a finding against the youthful offender that he has committed the offence.

Reports of Probation officers and other reports to be treated confidential.

22. The report of the Probation officer or any other report considered by the court under section 21 shall be treated as confidential :

Provided that if such report relates to the character, health or conduct of, or the circumstances in which, the child or parent is living, the court may, if it thinks expedient, communicate the substance thereof to the child or parent concerned, as the case may be, and may give the child or parent an opportunity to produce evidence as may be relevant to the matters stated in the report.

Prohibition on publication of names, addresses, etc. of children involved in cases or proceedings under the Act.

23. No report in any newspaper, magazine or news-sheet of any case or proceeding in any court under this Act in which a child is involved shall disclose the name, address or school or include any particulars calculated to lead to the identification of any such child, nor shall any picture be published as being or including a picture of any such child :

Provided that for reasons to be recorded in writing the court trying the case or holding the proceeding may permit the disclosure of any such report, if in its opinion such disclosure is in the interests of child welfare and is not likely to affect adversely the interests of the child concerned.

Provisions of Criminal Procedure Code, 1898, to apply to trial of cases and conduct of proceedings under the Act unless excluded.

24. Except as expressly provided under this Act or the rules made thereunder, the procedure to be followed in the trial of cases and the conduct of proceedings under this Act shall be in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

PART III.

CERTIFIED SCHOOLS, REMAND HOMES AND OTHER INSTITUTIONS.

Establishment and certification of schools.

25. (*1*) The Provincial Government may establish and maintain industrial schools for the reception of children and youthful offenders.

(*2*) The Provincial Government may certify that any industrial school or other educational institution not established under sub-section (*1*) is fit for the reception of children or youthful offenders.

Declaration of places as Remand Homes.

26. The Provincial Government may, by notification in the *Official Gazette*, declare any particular place as a remand home for the purposes of this Act.

Conditions to be prescribed for fit person institutions and approved places.

27. The Provincial Government may prescribe conditions subject to which institutions or associations shall be recognised as "fit person institutions" and "approved places" for the purposes of this Act.

Management of certified schools.

28. (*1*) For the control and management of every school established under sub-section (*1*) of section 25, a superintendent and a committee of visitors shall be appointed by the Provincial Government and such superintendent and committee shall be deemed to be the managers of the school for the purposes of this Act.

(*2*) Every school certified under sub-section (*2*) of section 25 shall be under the management of a governing body, the members of which shall be deemed to be the managers of the school for the purposes of this Act.

Liabilities of managers.

29. (*1*) The managers of a certified school whether established or recognised by the Provincial Government and the managers of a fit person institution shall be consulted by the court before any child is committed to it.

(*2*) The managers of a certified school recognized by the Provincial Government may decline to receive any child committed to it under this Act :

Provided that when such school has once accepted any child, it shall be bound to teach, train, lodge, clothe and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate of the school.

Medical inspection of Certified Schools and fit person institutions.

30. Any registered medical practitioner empowered in this behalf by the Provincial Government may visit any certified school or fit person institution at any time with or without notice to its managers in order to report to the Chief Inspector on the health of the inmates and the sanitary condition of the school or institution.

Power of Provincial Government to withdraw certificate.

31. (*1*) The Provincial Government if dissatisfied with the conditions, rules, management or superintendence of a certified school may at any time by notice served on the managers of the school declare that the certificate of the school is withdrawn as from a date specified in the notice and on such declaration the withdrawal of the certificate shall take effect and the school shall cease to be a certified school.

(*2*) The Provincial Government may, instead of withdrawing a certificate under sub-section (*1*), by notice served on the manager of the school, prohibit the admission of children or youthful offender to the school for such time as may be specified in the notice or until the notice is revoked :

Provided that before the issue of a notice under sub-section (*1*) or (*2*), a reasonable opportunity shall be giver to the managers of the school to show cause why the certificate may not be withdrawn or admission to the school may not be prohibited, as the case may be.

Resignation of certificate by managers.

32. The managers of a certified school may, on giving six months' notice in writing to the Provincial Government through the Chief Inspector of Certified Schools of their intention so to do, resign the certificate of the school and accordingly at the expiration of six months from the date of notice, unless before that time the notice is withdrawn, the resignation of the certificate shall take effect, and the school shall cease to be a certified school.

Effect of withdrawal or resignation of certificate.

33. A child or youthful offender shall not be received into a certified school under this Act after the date of the receipt by the managers of the school of a notice of withdrawal of the certificate or after the date of a notice of resignation of the certificate :

Provided that the obligation of the managers to teach, train, lodge, clothe and feed any children or youthful offenders detained in the school at the respective dates aforesaid shall, except so far as the Provincial Government otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

Disposal of inmates on withdrawal or resignation.

34. When a school ceases to be a certified school the children or youthful offenders detained therein shall be either discharged absolutely or on such conditions as the Provincial Government may impose or transferred by order of the Chief Inspector of Certified Schools to some other certified school or fit person institution in accordance with the provisions of this Act relating to discharge and transfer.

Inspection of voluntary homes.

35. (*1*) The Provincial Government may cause any voluntary home to be visited and inspected from time to time at all reasonable hours by the Chief Inspector of Certified Schools or any member of the inspecting staff for the purpose of securing the health and welfare of the children and the sanitation of the premises.

(*2*) The Chief Inspector of Certified Schools or any member of his inspecting staff shall have power to enter a voluntary home at all reasonable hours and to make a complete inspection thereof and of all registers relating thereto for the aforesaid purposes.

(*3*) Where any voluntary home is for the reception of girls, the inspection shall, where practicable, be conducted by a woman authorised or appointed by the Chief Inspector of Certified Schools.

(*4*) If the Provincial Government is satisfied that the management of any voluntary home, or the accommodation for, or the treatment of, the children therein is unsatisfactory, it may cause to be served upon the person responsible for the management of the voluntary home such general or specific direction with respect to the matters aforesaid or any of them as it thinks expedient for the welfare of the children in the institution.

(*5*) A direction under the foregoing sub-section may be varied by a subsequent direction or withdrawn by the Provincial Government.

(*6*) Where any such direction is not complied with, the District Magistrate in the mofussil or the Chief Presidency Magistrate in Greater Bombay may, on the complaint of any person appointed for the purpose by the Provincial Government, cause a summons to be served upon the person in charge of the voluntary home and upon such other person as he may think fit and upon hearing the person summoned, may if he thinks fit, make an order for the removal of all children from the voluntary home.

(*7*) The District Magistrate or the Chief Presidency Magistrate, as the case may be, may, if he thinks fit, order that the direction shall be deemed to be modified to such extent as may be specified in such order and the direction shall have effect accordingly.

(*8*) Any order for the removal of all children from such voluntary home shall operate as an authority to any person named in the order and to any police officer not below the rank of an Inspector to enter the voluntary home and to remove the children therein to a place of safety.

(*9*) Where an order has been made for the removal of all children from such voluntary home, the home shall not be used for the reception of children without the consent of the Provincial Government.

Inspection of certified schools and visits to fit person institutions.

36. (*1*) Every certified school shall be liable to inspection at all times and in all its departments by the Chief Inspector, Inspector or Assistant Inspector, and shall be so inspected at least once in every year.

(*2*) The Chief Inspector, Inspector or Assistant Inspector shall also have a right to visit a fit person institution at any time :

Provided that where any such certified school or fit person institution is for the reception of girls mainly and such inspection or visit is not made or paid by the Chief Inspector, the visitor shall, wherever practicable, be a woman.

PART IV.

OFFICERS, THEIR POWERS AND DUTIES.

Appointment of officers.

37. (*1*) The Provincial Government may for the purposes of this Act appoint the following officers :—

(*a*) The Chief Inspector of Certified Schools.

(*b*) Inspectors and Assistant Inspectors of certified schools.

(*c*) The Probation officer.

(*d*) Such other officers as may be necessary.

(*2*) Any society recognized in this behalf by the [1][State] Government may also appoint a Probation officer.

(*3*) Notwithstanding anything contained in sub-section (*1*) or (*2*), a juvenile court or any court empowered under section 8 to exercise the powers of a juvenile court may, for the purposes of any particular case or proceeding, appoint any other person as a Probation officer, if in its opinion such appointment is expedient or necessary.

Supervision and control of Probation officers.

38. A Probation officer in the performance of his duties under this Act shall be an officer of the court, and shall be under the supervision and guidance of the juvenile court, where such court exists and [2][elsewhere of the court which passes any order under this Act in respect of the child.]

Nothing in this section shall derogate from the powers of supervision of the Chief Presidency Magistrate and the Chief Inspector of Certified Schools in Greater Bombay and the District Magistrate and the Chief Inspector of Certified Schools elsewhere.

Powers and duties of Probation officers and inspectors.

39. The powers and duties of the Chief Inspector, Inspectors and Assistant Inspectors of Certified Schools and of Probation officers shall be as those provided under the provisions of this Act and the rules made thereunder and in accordance with the general or special orders which the [1][State] Government or any officers authorised in this behalf may make for the purpose of carrying out the provisions of this Act.

PART V.

MEASURES FOR THE CARE AND PROTECTION OF DESTITUTE AND NEGLECTED CHILDREN, ETC.

Children found homeless, destitute, etc.

40. Any police officer, or other person authorised in this behalf in accordance with the rules made by the [1][State] Government, may bring—

(*i*) before a juvenile court if such court is established for the area and is sitting,

(*ii*) if a juvenile court is not established for the area or if it is not sitting, before a magistrate empowered under section 8 with the powers of a juvenile court, or

(*iii*) if there is no court of the kind specified in items (*i*) and (*ii*) above, before any magistrate

any person who in his opinion is a child and who—

(*a*) has no home, or is found wandering without any settled place of abode and without visible means of subsistence, or is found begging or is found doing for a consideration any act under circumstances contrary to the well-being of the child; or

(*b*) is destitute or is illegitimate without means of subsistence, other than that of charity, or has no parent or guardian, or has a parent or guardian unfit to exercise or incapable of exercising proper care and guardianship, or who is not exercising proper care and guardianship; or

(*c*) is known to associate or live with any prostitute or person or persons of criminal or drunken habits; or

(*d*) is lodging or residing in or frequently going to a place or places used for the purposes of prostitution; or

(*e*) is otherwise likely to fall into bad association or to be exposed to moral danger, or to enter upon a life of crime.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words beginning with the word "elsewhere" and ending with the words "is situated" by Bom. 8 of 1954, s. 2. Schedule—Part III.

Procedure when Magistrate is not empowered to pass order under this Act.

41. When any magistrate not empowered to exercise the powers of a juvenile court is of opinion that a person brought before him is a child, he shall record such opinion and submit the proceedings and forward the child to the nearest juvenile court having jurisdiction in the case or where such court does not exist to the [1][Sessions Judge] to whom he is subordinate.

Police officer to make report if child has parent.

42. If the child requiring care and protection on any of the grounds mentioned in clauses (*a*) to (*e*) of section 40, has a parent or guardian who has the actual charge of, or control over, the child, the police officer or other person authorised under section 40 shall, in the first instance make a report to the juvenile court established for the area or if one has not been established to the nearest magistrate empowered under section 8 to exercise the powers of a juvenile court or to any other nearest magistrate.

Court or Magistrate may direct production of child by parent or guardian.

43. The juvenile court, magistrate, or the other court to which or whom a report is made under section 42, may call upon such parent or guardian to produce the child before it or him in order to show cause why the said child should not during the pendency of the proceedings, be removed from his care; and may on suitable sureties being offered for the safety of such child and for his being brought before it or him, permit the child to remain in the actual charge or control of his parent or guardian, or may immediately order his removal, if necessary by issuing a search warrant for the immediate production of the child to a place of safety, if it appears to the court or magistrate that the child is likely to be removed from the jurisdiction of the court or to be concealed.

Examination of police officer or person producing or reporting.

44. (*1*) The court before which a child is brought under section 40 or 41 shall examine the police officer or the authorised person who brought the child or made the report and record the substance of such examination and shall, as provided in section 43, send the child to a remand home for further inquiries.

(*2*) On the date fixed for the production of the child or for the inquiry or on any subsequent date to which the proceedings may be adjourned, the court shall hear and record all evidence which may be adduced and consider any cause which may be shown why an order committing the child to a certified school or to the care of a fit person should not be passed and make any further inquiry it thinks fit.

Committal of child to certified school or to fit person.

45. (*1*) If the court is satisfied on the inquiry that such person is a child and is as described within the provisions of section 40 and that it is expedient so to deal with him, the court may order him to be committed to a certified school or to the care of a fit person named by the court until such child attains the age of eighteen years, or in exceptional cases for a shorter period, the reasons for such shorter period to be stated in writing.

(*2*) The court which makes an order committing a child to the care of a relative or other fit person may, when making such order, require such relative or other person to execute a bond, with or without sureties, as the court may require, to be responsible for the good behaviour and well-being of the child and for the observance of such other conditions as the court may impose for securing that the child may lead an honest and industrious life.

(*3*) The court which makes an order committing a child to the care of a relative or other fit person under this section may in addition order that he be placed under supervision for any period not exceeding three years :

[1] These words were substituted for the words "District Magistrate or Sub-Divisional Magistrate" by Bom. 23 of 1951, s. 2, Schedule—Part III.

Provided that when the Court thinks fit, it may allow such child to remain in the custody of a parent or guardian with a direction that he be placed under supervision. on such parent or guardian executing a bond with or without sureties in a prescribed form, and the court may from time to time during the supervision period adjourn the case and compel the production of the child in court to satisfy itself that the conditions of the said bond are being carried out:

Provided further that if it appears to the court on receiving a report from the probation officer or otherwise, that there has been a breach of the supervision order it may, after making such inquiries as it deems fit, order the child in respect of whom the supervision order has been made, to be detained in a certified school or committed to the care of a fit person.

Sending of child having place of residence outside jurisdiction.

46. (*1*) In the case of a child whose ordinary place of residence lies outside the jurisdiction of the court before which it is brought, the court may, if satisfied after due inquiry that it is expedient so to do, send the child on his own bond back to a relative or a fit person who is fit and willing to receive him at his native place and exercise proper care and control of him.

(*2*) Any breach of the said bond shall render the child liable to be committed to a certified school or to the care of another fit person.

Uncontrollable children.

47. (*1*) Where the parent or guardian of a child complains to the juvenile court or if a juvenile court is not established for the area to a Magistrate empowered under section 8 to exercise the powers of a juvenile court that he is not able to control his child, the court or magistrate, as the case may be, if satisfied on inquiry that the case appears to be one of which cognizance should be taken, shall remand the child for observation or treatment and any further inquiries necessary.

(*2*) If the court or Magistrate is satisfied that it is expedient so to deal with the child under this Act, the court or Magistrate may order the child to be committed to a certified school, or a fit person institution.

(*3*) The court or Magistrate may also, if satisfied that home conditions are satisfactory and what is needed is supervision, commit the child to the care of the person or guardian or relative or any other proper person under a bond with or without sureties and place him under supervision for a period not exceeding three years.

PART VI.

SPECIAL OFFENCES IN RESPECT OF CHILDREN.

Punishment for cruelty to children.

48. (*1*) Whoever having the actual charge of, or control over, a child wilfully assaults, illtreats, neglects, abandons, or exposes him or causes or procures him to be assaulted, illtreated, neglected, abandoned or exposed or negligently fails to provide adequate food, clothes. or medical aid or lodging for a child in a manner likely to cause such child unnecessary mental and physical suffering shall, on conviction, be punished with imprisonment of either description for a term not exceeding two years or with fine which may extent to one thousand rupees or with both :

Provided that in the case of married juveniles the court trying the offence under this section may sanction its composition for reasons to be recorded in writing.

(*2*) The infliction of reasonable punishments on a child for a proper reason shall not be deemed to be an offence under this section.

Employing children for begging.

49. Whoever employs any child for the purposes of begging or causes any child to beg or whoever having the custody, charge or care of a child connives at or encourages the employment for the purpose of begging or the causing of a child to beg and whoever uses a child as an exhibit for the purpose of begging shall, on conviction be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to three hundred rupees or with both.

Penalty for being drunk while in charge of child, etc.

50. If any person is found drunk in any public street or other public place, whether a building or not, while having the charge of a child, and if such person is incapable by reason of his drunkenness of taking due care of the child, such person shall, on conviction, be punished with fine which may extend to two hundred rupees.

Penalty for giving intoxicating liquor or dangerous drug to child.

51. Whoever in any public street or other public place, whether a building or not, gives or causes to be given to any child any intoxicating liquor or dangerous drugs except upon the order of a duly qualified medical practitioner in case of sickness or other urgent cause shall, on conviction, be punished with fine which may extend to two hundred rupees.

Penalty for permitting child to enter places where liquor or dangerous drug is sold.

52. Whoever takes a child to any place where intoxicating liquor or dangerous drugs are sold or whoever being the proprietor, owner or a person in charge of such place permits a child to enter such place or whoever causes or procures a child to go to such place shall, on convication, be punished with fine which may extend to two hundred rupees.

Inciting child to bet or borrow.

53. Whoever by words either spoken or written or by signs, or otherwise, incites or attempts to incite a child to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or so incites or attempts to incite a child to borrow money or to enter into any transaction involving the borrowing of money shall, on conviction, be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Taking on pledge or purchasing articles from child.

54. Whoever takes an article on pledge from a child, whether offered by that child on his own behalf or on behalf of any person shall, on conviction, be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

Allowing or permitting child to be in brothel.

55. Whoever allows or permits a child over the age of four years to reside in or frequently go to a brothel shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Causing or encouraging seduction, etc.

56. (*1*) Whoever having the actual charge of, or control over, a girl under the age of eighteen years causes or encourages the seduction (which shall include inducement to indulge in immoral behaviour) or prostitution of that girl or causes or encourages any one other than her husband [1]* * * * * to have sexual intercourse with her shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

[1] The words "provided his wife has attained the age of fourteen years" were deleted by Bom. 53 of 1949, s. 2, First Schedule.

(2) For the purposes of this section a person shall be deemed to have caused or encouraged the seduction of a girl or to have induced her to behave immorally if he has knowingly allowed the girl to consort with, or to enter or continue in the employment of, any prostitute, or person of known immoral character.

Seduction or outrage of modesty.

57. Whoever seduces or indulges in immoral behaviour with a girl under the age of eighteen years shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Young girls exposed to risk of seduction, etc.

58. If it appears to a court on the complaint of any person that a girl under the age of eighteen years is, with or without the knowledge of her parent or guardian, exposed to the risk of seduction or prostitution, the court may direct the parent or guardian to enter into a recognisance to exercise due care and supervision in respect of such girl.

Exploitation of child employees.

59. (1) Whoever secures a child ostensibly for the purpose of menial employment or for labour in a dock, factory or other establishment, but in fact exploits the child for his own ends, withholds or lives on his earnings, shall, on conviction, be punished with fine which may extend to one thousand rupees.

(2) Whoever secures a child ostensibly for any of the purposes mentioned in sub-section (1), but exposes such child to the risk of seduction, sodomy, prostitution or other immoral conditions, shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

(3) Any person who avails himself of the labour of a child exploited in the manner referred to in sub-section (1) or (2) or for whose immoral gratification such child is used shall be liable as an abettor.

Penalty for abetting escape of child or youthful offender.

60. Whoever—

(a) knowingly assists or induces, directly or indirectly, a child detained in or placed out on licence, from a certified school or a fit person institution to escape from the school or fit person institution or from any person with whom, as the case may be, he has been placed out on licence, or any child to escape from the person to whose care he has been committed under the provisions of this Act, or

(b) knowingly harbours, conceals, connives at or prevents from returning to school or fit person institution or to any person with whom he is placed out on licence or to whose care he is committed under this Act, a child who has so escaped or knowingly assists or connives at so doing,

shall, on conviction, be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Penalty for use of voluntary home in contravention of section 35.

61. Whoever uses or knowingly permits to be used any voluntary home in contravention of the provisions of section 35 shall, on conviction, be punished with fine which may extend to five hundred rupees and to a further fine not exceeding fifty rupees in respect of each day during which the institution is so used or permitted to be used after the conviction.

Penalty for publication of report or pictures relating to children.

62. Whoever publishes any report or picture in contravention of the provisions of section 23 shall, on conviction, be punished with imprisonment of either description for a term not exceeding two months or with fine which may extend to five hundred rupees or with both.

Offences under this part cognizable

63. All offences under this part shall be cognizable.

PART VII.

YOUTHFUL OFFENDERS.

Bail of children arrested.

64. Where a boy or a girl apparently under the age of sixteen years is arrested on a charge of a nonbailable offence and cannot be brought forthwith before a court, the officer in charge of the police station or section to which such boy or girl is brought, may release the child on bail, if sufficient security is forthcoming, but shall not do so where the release of the child shall bring him into association with any reputed criminal or expose him to moral danger or where his release would defeat the ends of justice.

Custody of children not enlarged on bail.

65. (*1*) Where a boy or a girl apperently under the age of sixteen years having been arrested is not released under section 64 or otherwise, the officer in charge of the police station or section shall cause him or her to be detained in the prescribed manner until he or she can be brought before a juvenile court or a court empowered under section 8 to exercise the powers of a juvenile court.

(*2*) A court, on remanding or committing for trial a child who is not releasd on bail, shall order him to be detained in the prescribed manner.

Submission of information to Probation officer and officer in charge of remand home by Police After arrest.

66. Immediately after the arrest of a child, it shall be the duty of the police officer or any other person effecting the arrest. to inform the Probation officer and officer in charge of a remand home of such arrest in order to enable the said Probation officer and officer in charge of the remand home to proceed forthwith in obtaining information regarding his antecedents and family history and other material circumstances likely to assist the juvenile court in making final order.

Attendance of parent or guardian.

67. Where the child is arrested, the officer in charge of the police station or section o which he is brought shall cause the parent or guardian of the child, if he can be found, to be summoned at the court before which the child will appear

Sentences that may not be passed on child.

68. (*1*) Notwithstanding anything to the countrary contained in any law, no youthful offender shall be sentenced to death or transportation or imprisonment.

(*2*) When a child is found have committed an offence of so serious a nature that the court is of opinion that no punishment, which under the provisions of this Act it is authorised to inflict, is sufficient or when the coart is satisfied that the child is of so unruly or of so depraved a character that he cannot be committed to a certified school or detained in a place of safety and that none of the other methods in which the case may be legally dealt with is suitable, the court shall order the offender to be kept in safe custody in such place or manner as it thinks fit and shall report the case for the orders of the Provincial Government.

Expressions "conviction and sentence" not to be used in relation to children.

69. Save as provided in this Act, the words "conviction" and "sentence" shall cease to be used in relation to children dealt with under this Act and any reference in any enactment to a person convicted, a conviction or a sentence shall in the case of a child be construed as including reference to a person found guilty of an offence, a finding of guilty or an order made upon such a finding, as the case may be.

No proceedings under Chapter VIII of Criminal Procedure Code against child.

70. Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898, no proceedings shall be instituted and no order shall be passed against a child under Chapter VIII of the said Code.

V of 1898.

Commitment of child to certified school or fit person institution.

71. Where a child is found to have committed an offence, the court, if satisfied on inquiry that it is expedient so to deal with the child, may order him to be committed to a certified school or a fit person institution for such period of detention as will not, subject to the provisions of section 5, extend beyond the time when the child will attain the age of eighteen years or in exceptional cases for a shorter period, the reasons for such shorter period to be recorded in writing.

Other order of the Court.

72. A Court may, if it shall think fit, instead of directing any youthful offender to be detained in a certified school or committed to the care of a fit person institution under section 71—

(*i*) order him to be discharged after due admonition ;

(*ii*) without passing any final order, direct that he be released on probation of good conduct and committed to the care of his parent or guardian or other adult relative or other fit person on such parent, guardian , relative or person executing a bond, with or without sureties, as the court may require, to be responsible for the good behaviour and well-being of the youthful offender for any period not exceeding three years and for the observance of such other conditions as the court may impose for securing that the youthful offender may lead an honest and industrious life ;

(*iii*) if the offence committed by the youthful offender is punishable with fine and the youthful offender himself is over the age of fourteen years, order the offender to pay a fine.

Repatriation.

73. (*1*) In the case of a youthful offender whose ordinary place of residence lies outside the jurisdiction of the court before which he is brought, if the court is satisfied after due inquiry that it is expedient so to do, the court may send the youthful offender on his own bond back to a relative or a fit person, who is fit and willing to receive him at his native place and exercise proper care and control of him, notwithstanding the fact that the youthful offender has to be sent to a place outside the Province.

(*2*) Any breach of the said bond shall render the youthful offender, if found at any time at any place within the Province, liable to be committed to a certified school or to the care of another fit person.

Power to order parent to pay fine, etc., instead of child.

74. (*1*) Where the offence committed is punishable with fine and if the youthful offender is under fourteen years of age, the court shall order that the fine be paid by the parent or guardian of the child, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child.

(*2*) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(*3*) Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Release of youthful offenders under supervision.

75. The court shall wherever possible order that the youthful offender released under section 72 be placed under supervision :

Provided that if it appears to the court on receiving a repart from the Probation officer or otherwise, than the youthful offender has not been of good behaviour during the period of supervision, it may proceed to pass such final order as it would have done had it not placed the youthful offender on probation of good conduct.

Postponement *sine die*.

76. Notwithstanding anything contained in the foregoing provision, the court may adjourn the case of a youthful offender *sine die*, and may re-open at the stage of the preceedigs at which it was left when adjourned, on additional grounds or material being placed before the court.

Court empowered to exercise powers under one or more of preceding provisions.

77. In passing an order in respect of a youthful offender under this Part, it shall be lawful to the court to exercise its powers under any one or more of the foregoing provisions at the same time, if it is necessary and expedient to do so in the interests of the offender.

PART VIII.

MEASURES FOR DETENTION ETC., OF CHILDREN AND YOUTHFUL OFFENDERS.

Detention of child in place of safety.

78. (*1*) Any police officer, not below the rank of sub-inspector, or a police officer or a person authorised in this behalf in accordance with rules made by the Provincial Government may take to a place of safety any child in respect of whom an offence has been, or there is reason to believe has been, or is likely to be committed.

(*2*) A child so taken to a place of safety and also any child who seeks refuge in a place of safety may be detained until he can be brought before the court :

Provided that such detention shall not in the absence of a special order of the court exceed a period of twenty-four hours exclusive of the time necessary for the journey from the place of detention to the court.

(*3*) The court may thereupon make such order as hereinafter provided.

Court's powers for care detention of child.

79. (*1*) Where it appears to the court that an offence as stated in section 78 has been committed or is likely to be committed in respect of any child who is brought before it and that it is expedient in the interests of the child that action should be taken under this Act, the court may make such order as circumstances may admit and require for the care and detention of the child until a reasonable time has elapsed for the institution of proceedings against the person for having committed the offence in respect of the child or for the purpose of taking such other lawful action as may be necessary.

(*2*) The order of detention made under sub-section (*1*) shall remain in force until such time as the proceeding instituted against any person for an offence referred to in sub-section (*1*) terminate in either conviction, discharge or acquittal :

Provided that if the proceedings terminated in conviction of the person, the order of detention shall remain in force for a further period of one month.

(*3*) An order passed under this section shall be given effect to, notwithstanding that any person claims the custody of the child.

Victimised child to be sent to Juvenile Court or [2][First Class Magistrate].

80. Any court by which a person is convicted of having committed an offence in respect of a child, or before which a person is brought for trial for any such offence or by which a person is bound over to keep the peace towards a child shall direct that the child against whom the offence has been committed, or in relation to the alleged offence against whom the trial is in progress, or in relation to keeping the peace towards whom the adult concerned has been bound over shall be produced before a juvenile court with a view to that court making such interim and final orders as may be proper, provided that in an area where no juvenile court has been established, [1][the Court if it is not competent to exercise the powers of a juvenile court under section 8 shall submit the proceedings and forward the child to the salaried First Class Magistrate.]

Order for committal of victimised children.

81. The court before which a child is produced in accordance with section 79 may order the child in the prescribed manner—

(*a*) to be committed to a certified school or fit person institution, until such child attains the age of eighteen years or in exceptional cases for a shorter period the reasons for such shorter period to be recorded in writing, or

(*b*) to be committed to the care of a relative or other fit person, on bond, with or without surety, as the court may require, such relative or fit person being willing and capable of exercising proper care, control and protection of the child and of observing such other conditions, including, where necessary supervision for any period not exceeding three years as the court may impose in the interest of the child:

Provided that, if the child has a parent or guardian, fit and capable, in the opinion of the court, of exercising proper care, control and protection, the court may allow the child to remain in his custody or may commit the child to his care on bond, with or without surety, in a prescribed form and for the observance of such conditions as the court may impose in the interest of the child.

Supervision of victimised children.

82. The court which makes an order committing a child to the care of his parent, guardian or other fit person under the foregoing provisions may in addition order that he be placed under supervision.

Breach of supervision

83. If it appears to the court on receiving a report from the Probation officer or otherwise, that there has been a breach of the supervision order relating to the child in respect of whom the supervision order had been passed, it may after making such inquiries as it deems fit, order the child to be detained in a certified school or to the care of a fit person.

Repatriation of victimised child.

84. (*1*) In the case of a child, the ordinary place of whose residence is outside the jurisdiction of the court before which he is produced if the court is satisfied after due inquiry that it is expedient so to deal with the child, the court may order the child to be sent on his own bond back to a relative or a fit person who is fit and

[1] These words and figure were substituted for the words beginning with the words "the Court shall submit" and ending with the words "it is subordinate" by Bom. 23 of 1951, s. 2, Schedule.
[2] These words were substituted for the words "District Magistrate", *ibid*, s. 2, Schedule—Part III.

willing to receive him at his native place and exercise proper care and control of him notwithstanding the fact that the place of residence of such child may be at any place outside the [1][State].

(*2*) For breach of a bond taken under sub-section (*1*) the child shall be liable to be committed to a certified school or to the care of a fit person if found again in the [1][State].

Reasons to be recorded for order under sections 81 to 84.

85. The reasons for every order made under sections 81 to 84 shall be recorded in writing and may be made by the court in the absence of the child.

Order under sections 81 to 84 to be in force even if conviction of alleged victimisation is set aside.

86. Where an order is made under sections 81 to 84 and the conviction or order binding the person to keep the peace is set aside or the person is acquitted, the order made under the said sections shall remain in force but it shall be open to the person so acquitted, or discharged from his bond to keep the peace to apply for a reconsideration of the said order in consequence of the altered circumstances.

Warrant to search for child.

87. (*1*) If it appears to a juvenile court or any other court duly empowered under this Act from information on oath or solemn affirmation laid by any person who, in its opinion, is acting in the interests of the child, that there is reasonable cause to suspect that an offence has been or is being committed or unless immediate steps be taken will be committed in respect of the child, the court may issue a warrant authorising any police officer named therein to search for such child and if it is found that he has been or is being wilfully ill-treated or neglected in manner aforesaid or that any offence has been or is being committed in respect of the child to take him to and detain him in a place of safety until he can be brought before it and the court before whom the child is brought may in the first instance remand him in the prescribed manner to a place of safety.

(*2*) The court issuing a warrant under this section may in its discretion by the same warrant direct that any person accused of any offence in respect of the child be apprehended and brought before it, or direct that if such person executes a bond with sufficient sureties for his attendance before the magistrate at a specified time and thereafter until otherwise directed by the magistrate, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(*3*) The police officer executing the warrant shall be accompanied by the person laying the information if such person so desire, and may also, if the magistrate by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

(*4*) In any information or warrant under this section the name of the child shall be given if known.

Information to Probation officer and officer-in-charge of remand home by olice or any person effecting arrest.

88. (*1*) It shall be the duty of a police officer immediately after effecting the arrest of a child to inform a Probation officer and officer in charge of a remand home for the purpose stated in section 66.

(*2*) It shall be the duty of any other person effecting such arrest to inform a Probation officer and officer in charge of a remand home for the like purpose as provided in section 66.

(*3*) The juvenile court for the purpose of such inquiry, may remand the child even in his absence from time to time for a period of not more than fourteen days at a time until available information has been obtained.

[1] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

PART IX.

MAINTENANCE AND TREATMENT OF COMMITTED CHILDREN.

Period of detention.

89. Notwithstanding anything contained in this Act, the period of detention in the case of a person under the age of fifteen years shall be such as will result in the person being detained until he reaches the age of eighteen years:

Provided that the period of detention in the case of a child over fifteen years of age shall be not less than two years:

Provided further that where special circumstances exist and the interest of the child so demands, it shall be open to the court for reasons to be recorded in writing, to pass an order for a shorter period of detention.

Contribution of parents.

90. (*1*) The court which makes an order for the detention of a child or youthful offender in a certified school or for the committal of a child or youthful offender to the care of a relative or other fit person may make an order on the parent or other person liable to maintain the child, or youthful offender, to contribute to his maintenance, if able to do so, in the prescribed manner.

(*2*) The court before making any order under sub-section (*1*) shall inquire into the circumstances of the parent or other person liable to maintain the youthful offender or child and shall record evidence, if any, in the presence of the parent or such other person as the case may be.

(*3*) Any order made under this section may be varied by the court on an application made to it by the party liable or otherwise.

(*4*) The person liable to maintain a child or youthful offender shall for the purposes of sub-section (*1*) include in the case of illegitimacy his putative father:

Provided that where the child or youthful offender is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1898, the court shall not ordinarily make an order for contribution against the putative father but may order the whole or any part of the payments accruing due under the said order for maintenance to such person or persons as may be named, to be applied by him or them, as the case may be, towards the maintenance of the child or youthful offender.

V of 1898.

(*5*) Any order under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1898.

V of 1898.

Provision as to religion.

91. (*1*) In determining the certified school, fit person or other person to whose custody a child is to be committed or entrusted under this Act, the Court shall ascertain the religious denomination of the child and shall, if possible, in selecting such certified school, fit person or other person have regard to the facilities which are afforded for instruction in his religion.

(*2*) When a child is committed to the care of a certified school in which facilities for instruction is his religion are not afforded, or in entrusted to the care of a fit person or other person under circumstances in which it appears that no special facilities for the bringing up of the child in his religion exist, the authorities of such certified school or such fit person, or such other person shall not bring the child up in any religion other than his own.

(*3*) Where it is brought to the notice of the Chief Inspector of Certified Schools or of the court that a breach of sub-section (*2*) has been committed, it shall be open to the Chief Inspector or the court to transfer the child from the custody of such institution or person.

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Placing out on licence.

92. (*1*) Subject to the prescribed conditions, the Chief Inspector of Certified Schools may, at any time after the expiration of six months from the commencement of the detention of a child in a certified school or fit person institution, on the recommendation of the visitors or managers of the certified school or fit person institution, or on application by a parent, other relation or guardian, reinforced by local inquiries made through the Bombay Province Probation and After-Care Association, or otherwise, release such child from the school or institution and grant him a written licence in the prescribed form and on the prescribed condition permitting him to live under the supervision and authority of such responsible person or society willing to take charge of the child and approved by the Chief Inspector.

(*2*) Any licence granted under sub-section (*1*) shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.

(*3*) The Chief Inspector may at any time by order in writing revoke any licence and order the child to return to the certified school or fit person institution and shall do so at the desire of the person or society with whom or under whose supervision he is licensed to live. If the child refuses or fails to return to the school or fit person institution the Chief Inspector may, if necessary, call for the papers and deal with the case himself making such order as he thinks fit in the interest of the child or direct the arrest of the child and cause him to be placed before the court or taken back to the school or fit person institution.

(*4*) When a licence has been revoked or forfeited and the child or youthful offender, refusing or failing to return to the school or fit person institution, has been arrested and placed before the court under the provisions of sub-section (*3*) the court may, if satisfied by information on oath or solemn affirmation that there is reasonable ground for believing that his parent or guardian could produce the child or youthful offender issue a summons requiring the parent or guardian to attend at the court on such day as may as be specified in the summons and to produce the child or youthful offender, and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, on conviction, be punished with fine which may extend to fifty rupees.

(*5*) Where a parent or guardian is directed to pay a fine under this section the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

(*6*) The time during which a child is absent from a certified school or fit person institution in pursuance of a licence granted under this section shall be deemed to be part of the time of his detention in the school or institution; provided that, where a child has failed to return to the school or institution on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school or institution.

Action by Police with escaped children.

93. (*1*) Notwithstanding anything to the contrary contained in any law for the time being in force, any police officer may arrest without a warrant a child who has escaped from a certified school or a fit person institution or from the supervision of a society or a person under whose supervision he was directed to remain, and shall send the child back to the certified school, institution, society or the person without registering any offence or prosecuting the child, and the said child shall not be deemed to have committed any offence by reason of such escape but he shall be dealt with by the authorities of the institution concerned in such manner as they think fit.

(*2*) When a child absconding from a certified school or fit person has been arrested at a different place, he shall be detained in a place of safety pending his removal to the certified school or fit person.

PART X.

APPEALS.

Appeals.

94. (*1*) Any person aggrieved by a final order may appeal to the courts hereinafter mentioned.

(*2*) If a final order is passed—

(*a*) by a juvenile court, an appeal shall lie in the Greater Bombay to the Chief Presidency Magistrate and in other places to the [1][Court of Session];

(*b*) by a Magistrate (not being a Presidency Magistrate) empowered under section 8 to exercise the powers of a juvenile court, an appeal shall lie to the Court of Session;

(*c*) by a Presidency Magistrate or a Court of Session, an appeal shall lie to the High Court.

(*3*) Except as provided in this section no appeal shall lie from any order passed under this Act by a juvenile court or any other court empowered to exercise the powers of a juvenile court under section 8.

Application of Criminal Procedure Code to appeals.

V of 1898.

95. The provisions of sections 419 to 431 (both inclusive) of the Code of Criminal Procedure, 1898, shall *mutatis mutandis* apply to appeals against final orders as if the said orders were the orders of conviction and sentence passed by a Criminal Court.

Period of limitation of appeals.

96. (*1*) The period of limitation for an appeal against a final order shall be thirty days in the case of appeals to courts other than the High Court and sixty days in the case of an appeal to the High Court from the date of the order appealed against.

IX of 1908.

(*2*) The provisions of sections 5, 7 and 12 of the Indian Limitation Act, 1908, shall apply to the filing of such appeals.

PART XI.

MISCELLANEOUS.

Discharge and transfer.

97. (*1*) The [2][State] Government may at any time order a child or youthful offender to be discharged from a certified school or fit person institution, either absolutely or on such conditions as the [2][State] Government approves.

Bom. XVIII of 1929.

(*2*) (*a*) The [2][State] Government may order a youthful offender who has attained the age of sixteen years detained in a certified school to be transferred to a Borstal School established under the Bombay Borstal Schools Act, 1929, in the interest of discipline or for other special reasons;

(*b*) any boy or girl over the age of sixteen years, who has been released on licence and who has committed a breach of licence conditions and whom it is not advisable to send back to his own school or institution, may be transferred to a Borstal School:

Provided that the whole period of the detention of the child or youthful offender shall not be increased by the transfer.

Bom. XVIII of 1929.

(*3*) Upon the transfer of a child or youthful offender to a Borstal School under sub-section (*2*) the provisions of the Bombay Borstal Schools Act, 1929, shall apply to such offender as if he had been originally ordered to be detained in a Borstal School under that Act.

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[1] These words were substituted for the words "District Magistrate" by Bom. 23 of 1951, s. 2, Schedule—Part III.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*4*) The [1][State] Government may at any time in its discretion discharge a child from the care of any person to whose care he is committed under this Act, either absolutely or on such conditions as the [1][State] Government approves.

Transfers between institutions and those of like nature in different parts of India.

98. (*1*) The [1][State] Government may in consultation with the managers of any certified school or fit person institution, consent to the transfer to that school or institution of any child or youthful offender in respect of whom an order has been made by a competent authority in any other part of India of the nature of an order under this Act directing him to be sent to a certified or reformatory school or institution of a like nature, and upon such transfer the provisions of this Act shall apply to such child or youthful offender.

(*2*) The [1][State] Government may direct any child or youthful offender to be transferred from any certified or reformatory school or fit person institution to any school or institution of a like nature in any other part of India [2]* * * in respect of which provision similar to that in the [3][State] of Bombay is made by the Government of that part [4]* * under any law in force therein.

Provided that no such child or youthful offender shall be transferred under this section to any other [3][State] [4]* * * without the consent of the Government [5][of that State.]

Transfer of children of unsound mind or suffering from leprosy.

99. (*1*) Where it appears to the [1][State] Government that any child detained in a certified school or fit person institution under any order of a court is of unsound mind or a leper the [1][State] Government may, by an order setting forth the grounds of belief that the child is of unsound mind or a leper, order his removal to a mental hospital or leper asylum or other place of safe custody, there to be kept and treated as the [1][State] Government directs during the remainder of the term for which he has been ordered to be detained or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the child or of others that he should be further detained under medical care or treatment then until he is discharged according to law.

(*2*) Where it appears to the [1][State] Government that the child has become of sound mind, or is cured of leprosy, the [1][State] Government shall, by an order directed to the person having charge of the child if still liable to be kept in custody, send him to the certified school or fit person institution from which he was removed, or if the child is no longer liable to be kept in custody, order him to be discharged.

(*3*) The provisions of section 31 of the Indian Lunacy Act, 1912, or (subject to the provisions of sub-section (*2*)) of section 14 of the Lepers Act, 1898, shall apply to every child confined in a mental hospital or leper asylum under sub-section (*1*) after the expiration of the period for which he was ordered to be detained; and the time during which a child is confined in a mental hospital or leper asylum under that sub-section shall be reckoned as part of the period for which he may have been ordered by the court to be detained: IV of 1912. III of 1898.

Provided that where the removal of a child due to unsoundness of mind or leprosy is immediately necessary, it shall be open to the authorities of the institution in which the child is detained to apply to a court having jurisdiction under the Indian Lunacy Act, 1912, or the Lepers Act, 1898, as the case may be, for an immediate order of committal to mental hospital or a leper asylum until such time as the orders of the [1][State] Government can be obtained in the matter. IV of 1912. III of 1898.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] The words "or in an Acceding State" were omitted, *ibid.*
[3] This word was substituted for the word "Province", *ibid.*
[4] The words "or in an Acceding State" "or State" were omitted, *ibid.*
[5] These words were substituted for the word "concerned", *ibid.*

Transfer from one institution to another.

100. The Chief Inspector may direct any child or youthful offender to be transferred from one institution to another whether a certified school or fit person institution :

Provided that the total period of detention of the child or youthful offender shall not be increased by such transfer.

Compensation for false and frivolous or vexatious information.

101. (*1*) If in any case in which an information has been laid by any person under the provisions of section 87, the magistrate after such inquiry as he may deem necessary is of opinion that such information was flase and either frivolous or vexatious, the magistrate may for reasons to be recoded in writing direct that compensation to such an amount not exceeding one hundred rupees as he may determine be paid by such informer to the person against whom the information was laid.

(*2*) Before making any order for the payment of compensation, the magistrate shall call upon the informer to show cause why he should not pay compensation and shall consider any cause which such informer may show.

(*3*) The magistrate may by the order directing payment of the compensation further order that in default of payment the person ordered to pay such compensation shall suffer simple imprisonment for a term not exceeding thirty days.

XLV of 1860.

(*4*) When any person is imprisoned under sub-section (*3*), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply.

(*5*) No person who has been directed to pay compensation under this section shall by reason of such order be exempted from any civil or criminal liability in respect of the information given by him but any amount paid as compensation shall be taken into account in any subsequent civil suit relating to such matter.

(*6*) When an order for the payment of compensation is made under sub-section (*1*), the compensation shall not be paid to the person ordered to receive it before the period allowed for the presentation of an appeal has expired.

Removal of disqualification attaching to convictions.

102. When a youthful offender is found to have committed any offence, the fact that he has been so found shall not have any effect under section 75 of the Indian Penal Code or section 565 of the Code of Criminal Procedure, 1898, or operate as a disqualification for office or any employment or election under any law.

XLV of 1860. V of 1898.

Power to amend orders.

103. Without prejudice to the powers of courts of appeal and revision any custody order, supervision order or probation order may be amended by the court which made such order in respect of the person named as custodian, supervisor or Probation officer and such other details as may be deemed necessary, provided that in the case of an order committing a child to an institution no such order shall, subject to the proviso hereinbelow, be amended except in relation to the period of duration, such amendment being by way of extension of the period only :

Provided that in case of emergency and for immediate necessity a committal order may be varied by way of change in the institution to which the order relates, such variation being subject to confirmation by the Chief Inspector of Certified Schools.

Control over custodian of child.

104. Any person to whose care a child is committed under the provisions of this Act shall, while the order is in force, have the like control over the child as if he were his parent, and shall be responsible for his maintenance, and the child shall continue in his care for the period stated by the court notwithstanding that he is claimed by his parent or any other person.

Power to authorities to send children to remand homes or voluntary homes instead of to certified schools or fit person institutions.

105. Whenever under the provisions of this Act it is provided that a child shall be committed to a certified school or a fit person institution, it shall be lawful for the authority concerned to order such child to be sent to a remand home or a voluntary home instead, if, in the opinion of such authority, such order shall be in the interest of the child.

Bonds taken under the Act.

106. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to bonds taken under this Act. V of 1898.

Probation officers, Chief Inspector and Inspectors and persons authorised to be deemed to be public servants.

107. The Probation officers, Inspectors of Certified Schools including the Chief Inspector of Certified Schools and all other persons authorised or entitled to act under any of the provisions of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Protection of action taken under this Act.

108. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Rules.

109. (*1*) The Provincial Government may make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters, namely :—

(*a*) the procedure to be followed by juvenile courts and other courts empowered to exercise the powers of juvenile courts under section 8 in the trial of cases and the conduct of proceedings under the Act;

(*b*) the places at which, days on which and the manner in which a juvenile court shall hold its sittings under sub-section (*1*) of section 12 ;

(*c*) the conditions subject to which institutions and associations shall be recognized as approved places for the purpose of sub-section (*1*) of section 20 ;

(*d*) the establishment or certification, managements, maintenance, records and accounts of certified schools ; the education and industrial training of inmates in such institutions, and their leave of absence ; the appointment of visitors and their tenure of office ; the inspection of such certified schools and other institutions for the reception of [1][***] children ; and the internal management and discipline of schools either established or certified by the Provincial Gavernment, and release on license of inmates therein ;

(*e*) the conditions subject to which institutions and associations shall be recognised as " fit person institutions " and " approved places " under section 27 ;

(*f*) the powers and duties of Chief Inspectors, Inspectors and Assistant Inspectors of Certified Schools and Probation officers under section 39 ;

(*g*) the recruitment and training of personnel responsible for work under the Act ;

(*h*) the conditions in which societies may be recognised by the Provincial Government for providing Probation officers, their employment and matters incidental to their appointment, authorization, resignation and removal, and remuneration and expenses payable to them ;

[1] The word " poor " was deleted by Bom. 53 of 1949, s. 2, First Schedule.

(*i*) the manner of authorising persons for the purposes of sections 40 and 78;

(*j*) the manner in which a child or youthful offender shall be sent back to his native place under sections 46 and 73;

(*k*) the manner in which children shall be detained in custody by officers in charge of police stations or sections under sub-section (*1*) and the manner in which children shall be ordered to be detained by courts under sub-section (*2*), of section 65;

(*l*) the manner in which a child shall be ordered to be committed to a certified school or fit person institution or to the care of a relative or other fit person under clauses (*a*) and (*b*) of, and the form of bond under the proviso to section 81;

(*m*) the manner in which a child shall be remanded under sub-section (*1*) of section 87;

(*n*) the manner in which contribution for the maintenance of a child may be ordered to be paid under sub-section (*1*) of section 90;

(*o*) the conditions under which a child may be released from a certified school or fit person institution on licence and the form and conditions of such licence under sub-section (*1*) of section 92;

(*p*) the conditions subject to which children may be committed to the care of persons under this Act and the obligations of such persons towards the children so committed;

(*q*) any other matter which is or may be prescribed under the Act.

(*3*) The power to make rules under this Act shall be subject to the condition of previous publication.

(*4*) The rules made under this Act shall be published in the *Official Gazette* and on such publication shall have effect as if enacted in this Act.

Bom. XIII of 1924.

110. The Bombay Children Act, 1924. is hereby repealed:

Repeal of Bom. XIII of 1924.

Provided that—

(*a*) juvenile courts established under the repealed Act shall be deemed to be juvenile courts established under this Act;

(*b*) cert fied schools established or certified fit person institutions, remand homes, approved places and voluntary homes recognized under the repealed Act shall be deemed to be recognized under this Act;

(*c*) all licences and certificates granted and transfers made under the repealed Act shall be deemed to be granted or made under this Act;

(*d*) all cases, proceedings and appeals pending before any court under the repealed Act shall be continued and disposed of by the said courts notwithstanding anything in this Act as if they were cases, proceedings and appeals under this Act[1];

(*e*) all appeals against orders of courts appointed under the repealed Act which would have lain under that Act shall be deemed to be appeals from orders made by courts under this Act and shall be presented to the courts empowered to hear appeals under this Act and shall be disposed of accordingly;

(*f*) any appointment, notification, notice, order, rule or form made or issued under the repealed Act shall continue to be in force and be deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act and shall continue to be in force unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued unde this Act.

THE BOMBAY KHAR LANDS ACT, 1948.

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BOMBAY ACT No. LXXII OF 1948.[1]

[THE BOMBAY KHAR LANDS ACT, 1948.]

[*31st December 1948*]

Amended by Bom. 18 of 1949.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 3 of 1951.
" " " 54 of 1953.
" " " 21 of 1954.
" " " 8 of 1955.

An Act to provide for the protection and improvement of khar lands and the reclamation of tidal lands in the Province of Bombay by the construction and maintenance of embankments and for certain other matters.

WHEREAS it is expedient to provide for the protection and improvement of khar lands and the reclamation of tidal lands in the Province of Bombay by the construction and maintenance of embankments and for certain other matters; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Khar Lands Act, 1948.

(*2*) It shall extend to the whole of the [2][State] of Bombay.

(*3*) It shall come into force in such area and on such date as the [3][State] Government may, by notification in the *Official Gazette*, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "Board" means the Khar Lands Development Board established under section 3;

(*b*) "Chairman" means the chairman of the Board;

(*c*) "embankment" includes—

(*i*) every bank, dam, wall and dyke made or used for excluding water from, or retaining water upon, any tidal or khar land or for excluding salt water from entering into any adjoining sweet water nallas;

(*ii*) every sluice, spur, groyne, training-wall, berm or other work annexed to, or portion of, any such embankment;

(*iii*) every bank, dam, dyke, wall, groyne or spur made or erected for the protection of any such embankment or of any tidal or khar land from erosion or overflow by or of tides, waves or waters; and

(*iv*) all buildings intended for inspection and supervision;

(*d*) "khar land" means such tidal land as is made cultivable by protecting it by means of an embankment from the sea or tidal river, and includes all such land in whatever manner described, whether as khar, khajan, kharepat, gazni or otherwise;

(*e*) "member" means a member of the Board;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "sea" includes bay, inlet, creek or an arm of the sea;

(*h*) "tidal land" means such parts of bed or shore of the tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides together with the adjoining bed or shore not exceeding two furlongs in distance from the spring tide mark;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 354.
[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word "Provincial", *ibid.*

(*i*) "tidal water" means any part of the sea or river within the flow and ebb of the tide at ordinary spring tides;

(*j*) "unit" means a unit formed by the Board under sub-section (*2*) of section 11.

Establishment of Khar Lands Development Board.

3. (*1*) As soon as may be after the commencement of this Act, the [1][State] Government shall establish the Khar Lands Development Board. The Board shall consist of a Chairman and of members as specified in sub-section (*2*).

[2][(*2*) The Board shall consist of four *ex-officio* members and eight other members :—

(*a*) The *ex-officio* members shall be :—

(*i*) Secretary to the Government of Bombay, Revenue Department;

(*ii*) Secretary to the Government of Bombay, Agriculture and Forests Department;

(*iii*) Director of Agricultural Engineering, Bombay State;

(*iv*) Chief Engineer, Public Works Department (Irrigation).

(*b*) The members other than the *ex-officio* members shall be nominated by the State Government, two each representing the Thana and Kolaba districts and one representing the Broach and Ahmedabad districts and one each representing the Surat, Ratnagiri and [3]Kanara districts.

(*3*) The names of members nominated under sub-section (*2*) shall be published in the *Official Gazette*.]

Term of office : vacancies.

4. (*1*) The members other than *ex-officio* members shall hold office for a period of three years from the date of the publication of their names under [4][* * *] section 3 :

[5][Provided that such members of the Board established for the first time immediately after the coming into force of this Act shall in the first instance be appointed for a period of one year, but shall be eligible for re-appointment every year for the total period not exceeding five years from the date of the establishment of the Board.]

(*2*) If any such member—

(*a*) dies; or

(*b*) is absent from the meetings of the Board for more than three consecutive meetings of the Board; or

(*c*) leaves the [6][State] of Bombay with the intention of being absent therefrom for more than three consecutive months; or

(*d*) resigns; or

(*e*) refuses to act or becomes incapable of acting;

his office shall thereupon become vacant.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This portion was substituted for the original sub-sections (*2*) to (*5*) by Bom. 54 of 1953, s. (*2*).
[3] The word "North" was repealed by Bom. 21 of 1954, s. 2, First Schedule.
[4] The words, brackets and figure "sub-section (*4*) of" were deleted, *ibid.*, s. 3 (*1*).
[5] This proviso was substituted for the original by Bom. 18 of 1949, s. 2.
[6] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

(*3*) All casual vacancies among the members other than the *ex-officio* members shall be filled up as soon as it conveniently may be [1][by nomination under] section 3 ; and the person [2][nominated] to a casual vacancy shall hold office so long as the member in whose place he is [2][nominated] would have held it if the vacancy had not occurred.

(*4*) No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

5. [*Power of State Government to nominate members in certain circumstances. Deleted by Bom. 54 of 1953, s. 4.*

6. The Board constituted under section 3 shall be a body corporate by the name of "The Khar Lands Development Board" and shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both moveable and immovable and to contract and to do all things necessary for the purposes of this Act. **Incorporation of Board.**

7. (*1*) The Board may with the previous sanction of the [3][State] Government make by-laws consistent with this Act and the rules made thereunder for all or any of the following matters:— **Power of Board to make by-laws.**

(*a*) the manner in which its business shall be transacted ;

(*b*) the definition of its power to enter into contracts, which shall be binding on it and the manner in which such contracts shall be executed ;

(*c*) any other matter for which provision is required to be made for the efficient discharge of its duties or business.

(*2*) The Board may also make regulations for carrying out the objects of a scheme which has come into force under this Act.

8. [5]* The [3][State] Government shall appoint a Chairman. The Chairman so appointed shall hold office for a period of three years from the date of his appointment: **Appointment of Chairman[6]*.**

[6][Provided that the Chairman of the Board established for the first time immediately after the coming into force of this Act shall in the first instance be appointed for a period of one year, but shall be eligible for reappointment every year for the total period not exceeding five years from the date of his appointment.]

[5]* * * * * *

9. (*1*) The [3][State] Government may appoint [8][the Secretary and] such other officers and servants as may be required to enable the Board to discharge its functions under this Act. **Appointment of [7]* officers and servants.**

(*2*) The Board may, with the previous sanction of the [3][State] Government, consult such technical advisers, as it thinks necessary for the purpose of carrying out the objects of this Act and they shall be paid such remuneration as may be determined by the Board with the previous sanction of the [3][State] Government.

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[1]These words were substituted for the words, brackets and figure "by selection in the manner specified in sub-section (*3*) of" by Bom. 54 of 1953, s. 3 (*2*)(*a*).

[2] This word was substituted for the word "selected", *ibid.*, s. 3 (*2*) (*b*).

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The words "and Secretary" were omitted by Bom. 18 of 1949, s. 3.

[5] The brackets and figure "(*1*)" and sub-section (*2*) were omitted, *ibid.*

[6] This proviso was substituted for the original, *ibid.*

[7] The word "other" was omitted, *ibid.*, s. 4.

[8] These words were inserted, *ibid.*

(*3*) The officers and servants [1][appointed under sub-section (*1*)] shall be the servants of the [2][State] Government and they shall draw their pay and allowances from the [2][State] revenues.

Board to pay costs on account of pay, pension, etc., of officers and servants.

10. The Board shall pay every year out of its fund to the [2][State] Government such cost as the [2][State] Government may determine on account of the pay, pension, leave and other allowances of the officers and servants appointed under this Act.

Powers and duties of Board.

11. (*1*) It shall be the duty of the Board to promote the development of khar lands in the most efficient and economical manner.

(*2*) Without prejudice to the generality of the foregoing power, the Board may—

(*a*) cause survey to be made of all the khar and tidal lands in the [3][State] to which this Act applies;

(*b*) prepare a list of—

(*i*) all embankments,

(*ii*) the lands benefited or to be protected by each such embankment,

(*iii*) the names of landlords and tenants of such lands;

(*c*) form units having regard to the contours of embankments constructed or to be constructed for the protection of lands and the homogeneity of the plots of lands protected or to be protected thereby;

(*d*) prepare schemes for the construction, maintenance, and preservation of embankments and other prescribed objects;

(*e*) remove encroachments on inland waterways;

(*f*) supervise all work in connection with the better cultivation of khar lands;

(*g*) reclaim tidal lands for the purpose of bringing them under cultivation; and

(*h*) generally do all that is necessary for carrying out the objects of the Act.

Power of Board to prepare scheme.

12. (*1*) The Board may prepare a scheme for each unit for the purpose of carrying out its duties under section 11.

(*2*) A scheme prepared under sub-section (*1*) shall contain the following particulars, namely :—

(*i*) the objects of the scheme;

(*ii*) the approximate area of the lands likely to be included in or affected by the scheme;

(*iii*) a plan showing the approximate area included in or affected by the scheme;

(*iv*) the persons, including the [4][Government] affected by the scheme;

(*v*) the kind of embankment to be constructed or maintained under the scheme;

(*vi*) a detailed estimate of the cost of the scheme;

(*vii*) such other particulars as may be prescribed.

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[1] This portion was inserted by Bom. 18 of 1949, s. 3.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Province", *ibid.*

[4] This word was substituted for the word "Crown", *ibid.*

Publication of scheme.

13. (*1*) The scheme prepared under section 12 shall be published in the *Official Gazette* and in the village and at the headquarters of the taluka or mahal and of the district in which the lands proposed to be included in the scheme are situate.

(*2*) The Board shall, on publication of the scheme, require all persons affected by the scheme who wish to make any objections to the scheme or part thereof to submit their objections in writing to such person as the Board may authorize in this behalf or appear before him within one month of the publication of the scheme in the *Official Gazette* under sub-section (*1*) or within fifteen days from the date of the publication of the scheme in the village under sub-section (*1*) whichever period expires later.

Report of authorised person.

14. (*1*) The person authorized under sub-section (*2*) of section 13 shall hear such objections as are made to him in person, consider all objections duly submitted under the said sub-section (*2*) and submit his report together with the objections to the Board.

(*2*) Such person may, while submitting his report under sub-section (*1*), recommend any modifications which in his opinion are required in any of the particulars contained in the scheme prepared by the Board under section 12.

Power of [1][State] Government to sanction scheme with or without modification.

15. (*1*) After consideration of the objections and the report submitted to it under sub-section (*1*) of section 14, the Board shall within the period prescribed submit the draft scheme with any modifications which it may have made therein together with the objections forwarded to it, to the [1][State] Government and shall at the same time apply for its sanction.

(*2*) After receiving such application and after making such inquiry, as it may think fit, the [1][State] Government may within the period prescribed sanction the scheme with or without modification and subject to such conditions as it may think fit to impose or refuse to give sanction.

(*3*) If the scheme is sanctioned under sub-section (*2*), it shall be published in the *Official Gazette* and in the village and at the headquarters of the taluka or mahal and of the district in which the lands included in the scheme are situate.

(*4*) In considering the objections, the decision of the Board on the question whether or not any land included in the scheme, is benefited by, or will be protected under, the scheme shall be conclusive evidence on the question.

Effect of scheme.

16. On the date on which the scheme is published in the *Official Gazette* under sub-section (*3*) of section 15 it shall come into force and shall have effect as if it were enacted in this Act.

Execution of scheme.

17. After the scheme has come into force under [2][this Act] the Board shall execute the scheme in accordance with the rules prescribed in that behalf.

Power to vary scheme.

[3][**17A.** (*1*) (*a*) If after the scheme has come into force, the Board considers that the scheme is defective on account of an error, irregularity or informality, the Board may apply to the State Government for the variation of the scheme, in the manner specified in the application.

(*b*) If the State Government is satisfied that the variation proposed by the Board is on account of an error, irregularity or informality, which does not vary the scheme in any material particulars, the State Government may, by a notification in the *Official Gazette*, sanction the variation.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the word and figures "section 16" by Bom. 3 of 1951, s. 3.
[3] These sections were inserted, *ibid.*, s. 2.

(2) If the State Government is satisfied that the variation proposed by the Board varies the scheme in any material particulars, the State Government shall require the Board to follow the provisions of sections 13, 14 and 15 in respect of such variation, and the provisions of sections 13, 14 and 15 shall apply in relation to such variation, as if such variation was itself a scheme.

Variation to form part of the scheme.

17B. The variation sanctioned under section 17A shall take effect on the date on which the notification is published in the *Official Gazette* under clause (*b*) of sub-section (*1*) of section 17A or on the date on which the variation is published under sub-section (*3*) of section 15, as the case may be, as if it were incorporated in the scheme.]

Power to revoke scheme.

[1][17C. If upon an application made by the Board for the purpose, the State Government is satisfied that it is necessary so to do, the State Government may at any time, by notification in the *Official Gazette*, revoke the scheme, notwithstanding anything hereinbefore contained.]

Refund of contribution and payment of compensation when scheme is revoked.

[1][17D. If any scheme which has come into force is revoked, any person who has paid any contribution as required under section 25, shall be entitled to the refund of the amount of the contribution. If any person who has incurred any expenditure for the purpose of complying with any regulation made under section 18, such person shall also be entitled to receive such compensation as the Board may determine.]

Power of Board to make regulations.

18. For the purpose of carrying out the objects of the scheme which has come into force under [2][this Act] the Board may make regulations requiring any person or class of persons who in the opinion of the Board is or are interested in or affected by the scheme or the public generally to take certain action or to refrain from doing certain acts in respect of any matters supplementary and incidental to the scheme.

Committees for units.

19. The Board shall appoint a Committee for each unit to be constituted in the prescribed manner and it shall be the duty of the Committee so appointed to maintain and repair embankments included in the unit to which the scheme relates. The Committee shall exercise such powers and perform such other duties as the Board may determine.

Acquisition of land, right or interest.

20. If at any time, on an application of the Board, it appears to the [3][State] Government that any land or the right or interest of any person in any land should for the purposes of any scheme under the Act be compulsorily acquired, it shall be lawful for the [3][State] Government to publish a notification to that effect in the *Official Gazette*. The notification so published shall be deemed to be a declaration under section 6 of the Land Acquisition Act, 1894, and shall be conclusive as if I of it was made under the said provision and the land, right or interest in the land shall be 1894. deemed to be needed for a public purpose within the meaning of the said Act. On the publication of the notification, the Collector shall proceed to take order for the acquisition of the land, right or interest, as the case may be, and the provisions of the said Act shall *mutatis mutandis* apply to the determination of the amount of compensation, the apportionment of the compensation and other matters relating to the acquisition of the said land, right or interest. The [3][State] Government may make rules in all matters connected with the enforcement of the said provisions in so far as they are applicable to the acquisition of such land, right or interest :

Provided that where any land which is acquired has remained fallow for three successive years immediately preceding the date of the notification, the market value of such land shall not be assessed to be more than twice the amount of annual assessment payable in respect thereof.

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[1] Sections 17C and 17D were inserted by Bom. 54 of 1953, s. 5.
[2] These words were substituted for the word and figures "section 16" by Bom. 3 of 1951, s. 3.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Claim for compensation for consequential damage.

21. Subject to the provisions of section 23, whenever any land other than land acquired for the purposes of this Act or any right of fishery, right of drainage, right of the use of water or other right of property shall have been injuriously affected by any act done, or any scheme executed, under the provisions of this Act, the person in whom such property or right is vested may prefer a claim in writing to the Collector for compensation and thereupon the provisions of the Land Acquisition Act, 1894, shall, so far as may be, *mutatis mutandis*, apply for the determination of the compensation, apportionment and payment thereof.

I of 1894.

Limitation to claim for compensation.

22. No claim under section 21 shall be entertained if it is made later than two years next after the completion of the work by which such right is injuriously affected.

No compensation in certain cases for use or removal of earth.

23. Any land which, before the commencement of this Act, has been used for the purpose of obtaining earth or other materials for the construction or repair of any embankment shall be deemed to be at the disposal of the Board for such purpose without payment of compensation for the use or removal of such earth or other materials.

Power of Board to regulate fishing rights.

24. (*1*) Notwithstanding any custom, usage, law or contract to the contrary no person shall fish or exercise the right of fishery in any water on any tidal or khar land to which the provisions of this Act apply except under a licence granted by the Board in this behalf.

(*2*) The licence granted under sub-section (*1*) shall be granted on the payment of such fees and subject to such restrictions and on such conditions and shall be in such form and contain such particulars as may be prescribed.

Contribution towards cost of scheme.

[1][25. (*1*) The cost of the scheme which has come into force under section 16 shall be met by contribution between the State Government and the landlords and the tenants thereof in accordance with the following rules :—

Rule 1.—The State Government shall contribute 40 per cent. of the cost and if lands included in the scheme are not leased, 60 per cent. of the cost shall be borne by the landlords.

**Rule 2.*—If all or any of the lands included in the scheme are leased, 10 per cent. of the cost shall be borne by the landlords, notwithstanding anything to the contrary contained in any agreement, custom or usage relating to the liability of the tenants to pay such cost and 50 per cent. of the cost shall be borne by the tenants.

Rule 3.—If any land included in a scheme is held on a mulgeni or any other kind of permanent tenancy, the contribution payable by landords or tenants shall be as follows :—

(*i*) If the landlord or any intermediate tenure holder receives a fixed rent in respect of such land payable in cash or in kind, the amount or quantity of rent not being variable in proportion to the yield of the land—

(*a*) the landlord or any of the intermediate tenure holders who receives such fixed rent shall not be liable to pay any part of the contribution ;

(*b*) if neither the landlord nor any of the intermediate tenure holders is liable to pay any part of the contribution under sub-clause (*a*), the tenant shall pay 60 per cent. of the cost.

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[1] Section 25 was substituted for the original by Bom. 54 of 1953, s. 6.

* The provisions of Rule 2 shall apply and shall be deemed to have applied in respect of all schemes sanctioned by the State Government under sub-section (2) of section 15 of the said Act on or after the 11th day of December 1952 (*vide* s. 9 of Bom. 54 of 1953).

(*ii*) If the landlord and any intermediate tenure holder do not receive a fixed rent as specified in clause (*i*)—

(*a*) the 10 per cent. of the contribution payable by the landlord shall be paid by the landlord and the intermediate tenure holder, who do not receive a fixed rent, in proportion to the amount of rent received by each of them in respect of the land;

(*b*) the tenant in actual occupation shall pay 50 per cent. of the cost.

Rule 4.—If the lands included in a scheme are held by more than one landlord, intermediate tenure holder or a tenant and if any question arises as to the amount of contribution to be paid by such landlord, intermediate tenure holder, or tenant, the question shall be referred to the decision of such officer as the State Government may appoint in this behalf and the decision of such officer shall be final.

Explanation.—For the purpose of these rules in relation to land held on mulgeni tenure, an intermediate tenure holder shall include a mulgenigar and a pot-mulgenigar.

(*2*) The State Government may prescribe by rules made in this behalf the manner in which and the extent to which the contribution payable by landlords, intermediate tenure holders and tenants under this section may be levied in lieu of cash payment.]

[1][(*3*) The contribution payable by the landlords, intermediate tenure holders and the tenants in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on such land or the interest in such land, as the case may be, held by the person liable to pay such contribution.]

Application for loan.

26. The landlords and tenants of lands who are not able to pay their share of the contribution towards the cost of the scheme under section 25 may within the prescribed period make an application to the [2][State] Government for the grant of a loan for the purpose of paying their share of such contribution.

Power of [2][State] Government to grant loans.

27. When an application for a loan is made under section 26, the [2][State] Government may grant the loan in accordance with the rules from time to time made in this behalf.

Recovery of loans.

28. Every loan made in accordance with such rules, all interest (if any) chargeable thereon and the costs (if any) incurred in making or recovering the same [3][shall, subject to the prior payment of land revenue, be a first charge on the land or any interest therein held by the person to whom the loan is made and] shall, when they become due, be recoverable [4][by sale of the land or the interest therein, as the case may be, and also] from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety.

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[1] This sub-section was added by Bom. 8 of 1955, s. 2.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] These words were inserted by Bom. 8 of 1955, s. 3(*1*).
[4] These words were inserted, *ibid.*, s. 3(*2*).

Liability of joint borrowers as among themselves.

29. When a loan is granted under section 27 to persons on such terms that all of them are jointly and severally bound to the [1][State] Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed, marked or sealed by each of them or his agent duly authorized in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Forfeiture of lease of land for failure to pay contribution.

30. If any person holding any land on lease from the [1][State] Government fails to pay his share of the contribution under section 25 in respect of such land, within such time as the [1][State] Government may fix to the [1][State] Government, the Collector may dispose of the land in accordance with the rules made in this behalf under section 46. Such lease shall be determined by forfeiture to the [1][State] Government, notwithstanding anything contained in any law for the time being in force and unless the Collector otherwise directs, be freed from all rights, incumbrances and equities theretofore, created in favour of any person other than the [2][Government] in respect of such land.

Levy of annual contribution.

31. (*1*) All [3][landlords, intermediate tenure holders and] tenants and all owners of lands benefited or protected by embankments included in a scheme under this Act shall pay to the Board an annual contribution which shall be levied and paid in such manner and at such rate and subject to such conditions, if any, as may be prescribed.

(*2*) The decision of the Board on the question whether any land is benefited or protected by an embankment under this Act shall be conclusive evidence on such question.

[4](*3*) Notwithstanding anything contained in sub-section (*1*), the Board may, in such circumstances as may be prescribed, suspend or remit wholly or partially the payment of the annual contribution by such landlords, [5][intermediate tenure holders, tenants or] owners as it may specify in this behalf.]

[6][(*4*) The contribution payable under this section shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on such land or the interest in such land, as the case may be, held by the person liable to pay such contribution.

Explanation.—For the purpose of this section in relation to land held on mulgeni tenure, an intermediate tenure holder shall include a mulgenigar and a pot-mulgenigar].

Liability of person in possession of land to pay contribution or loan.

[7][**31A.** When any person primarily liable to pay any contribution under section 25 or 31 or any loan made under section 28 makes a default, the amount of such contribution or loan, which may be due, shall be recoverable from any person in possession of the land :

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Crown", *ibid.*
[3] These words were substituted for the words "landlords and" by Bom. 8 of 1955, s. 4(*1*).
[4] This sub-section was added by Bom. 54 of 1953, s. 7.
[5] These words were substituted for the words "tenants or" by Bom. 8 of 1955, s. 4(*2*).
[6] Sub-section (*4*) and Explanation were added, *ibid.*, s. 4(*3*).
[7] This section was inserted, *ibid.*, s. 5.

Provided that where any amount is recovered under this section from a person, who is not primarily liable for the same, such person shall be allowed credit for any payments which he may have duly made to the person who is primarily liable and shall be entitled to credit for the amount recovered from him, in account with the person who is primarily liable.]

Presentation of budget estimates.

32. The budget estimates of the Board for each financial year shall be presented to the Board before the 1st day of March in the preceding financial year by the Chairman and the Budget as finally passed shall be subject to the approval of the [1][State] Government which shall have power to reduce any item in the estimates of expenditure and to restore any provision which it considers to be essential for the safe and efficient conduct of the business of the Board.

Restriction on unbudgeted expenditure.

33. (*1*) Save where in the opinion of the Board circumstances of extreme urgency have arisen, no sum exceeding Rs. 25,000 shall be expended by the Board unless such sum has been included in the budget approved by the [1][State] Government under section 32.

(*2*) Where any such sum is expended under circumstances of extreme urgency a report thereon shall be made as soon as practicable to the [1][State] Government.

Custody and disbursement of monies.

34. (*1*) All monies received by the Board shall be credited into a separate account maintained for the purpose in the Government Treasury.

(*2*) All funds for disbursement shall be drawn by means of cheques which shall be signed by the Chairman of the Board, or such other member of the Board as the Chairman may, with the approval of the Board, authorize in this behalf.

Provisions for audit.

35. The accounts of the Board shall be maintained in such form and shall be subject to such audit, by such agency and on such terms and conditions as the [1][State] Government may prescribe.

Supply of copies of budget and accounts.

36. The Board shall furnish each financial year to the [1][State] Government a copy of its budget and of the accounts of the preceding financial year.

Fund.

37. (*1*) The Board shall have its own fund and the following monies shall be placed to the credit thereof—

(*a*) the fees received under section 24 ;

(*b*) all contributions paid to the Board under section 25 ; and

(*c*) seventy-five per cent. of the annual contributions paid to the Board under section 31.

(*2*) The balances of the fund and the interest accruing thereon shall be expended by the Board in such manner and for such purposes as may be prescribed.

Sinking fund.

38. The Board shall have also a sinking fund to which shall be credited twenty-five per cent of the annual contributions paid to the Board under section 31. The Board may apply the sinking fund to the repair of breaches in embankments included in a scheme caused by tempest' flood or other irresistible force and to such other purposes as may be prescribed.

[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Penalty.

39. Any person who contravenes or causes any contravention of any of the provisions of a scheme which has come into force under section 16 or any of the regulations made under section 18 or does any act which causes damage to any of the works carried out under the scheme or obstructs any person in the due exercise of his powers or execution of his duties under this Act or contravenes the provisions of any rules made, or fails to comply with the conditions of a licence granted, under this Act, shall, on conviction, be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

Recovery of amounts due.

40. Save as otherwise expressly provided in section 30, all amounts due under this Act shall be recoverable as arrears of land revenue.

Right of entry.

41. For the purpose of preparing, sanctioning or executing any scheme or otherwise for carrying out the objects of this Act, any person duly authorized by the Board or the Committee appointed by the Board under this Act may, after giving such notice as may be prescribed, to the owner or occupier or other person interested in any land enter upon, survey and mark out such land and do all acts necessary for such purposes.

Inquiries to be held summarily.

42. (*1*) The person authorized under sub-section (*2*) of section 13 shall, if he desires to make any inquiry, make the inquiry in the manner provided for holding a summary inquiry under the Bombay Land Revenue Code, 1879, and all the provisions contained in the said Code relating to the holding of a summary inquiry shall, so far as may be, apply.

Bom. V of 1879.

(*2*) Such person as well as the Board shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers under the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

Registration of ducument, plan or map in connection with scheme not required

43. (*1*) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a scheme which has come into force.

XVI of 1908.

(*2*) All such documents, plans and maps shall, for the purposes of sections 48 and 49 of the Indian Registration Act, 1908, be deemed to be registered in accordance with the provisions of that Act:

XVI of 1908.

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

Certain persons to be public servants.

44. The Chairman, members and Secretary of the Board, the members of any committee or officers appointed by the Board and the person authorized under sub-section (*2*) of section 13 shall be deemed to be public servants within the meaning of the Indian Penal Code.

XLV of 1860.

Protection of persons acting in good faith.

45. (*1*) No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorized under this Act in respect of anything in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

(*2*) No suit or prosecution shall be instituted against any public servant or person duly authorized under this Act in respect of anything done or intended to be done under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Rules.

46. (*1*) The [1][State] Government may, by notification in the *Official Gazette*, make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters :—

[2]* * * * * * *

(*b*) the other objects for which a scheme may be prepared by the Board under clause (*d*) of sub section (*2*) of section 11 ;

(*c*) the other particulars to be prescribed under clause (*vii*) of sub-section (*2*) of section 12 ;

(*d*) the period within which the Board shall submit the draft scheme, and the period within which the [1][State] Government may sanction the draft scheme, under section 15 ;

(*e*) execution of a scheme under section 17 ;

(*f*) the manner of constituting a committee for each unit under section 19 ;

(*g*) matters connected with the acquisition of land, right or interest under section 20 ;

(*h*) the fees for the grant of a licence, the restrictions subject to which and the conditions on which a licence shall be granted, the form of the licence and the particulars to be contained therein, under section 24 ;

[3][(*i*) the manner in which and the extent to which the contribution payable under section 25 may be levied in lieu of cash payment ;]

(*j*) the period within which an application for a loan may be made under section 26 ;

(*k*) grant of a loan under section 27 ;

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] Clause (*a*) was deleted by Bom. 54 of 1953, s. 8 (*1*).
[3] Clause (*i*) was substituted for the original, *ibid*, s. 8 (*2*).

(*l*) disposal of land under section 30;

(*m*) the manner in which, the rate at which and the conditions subject to which the annual contribution shall be levied and paid under sub-section (*1*) of section 31, [1][and the circumstances in which the payment of the annual contribution may be suspended or remitted by the Board under sub-section (*3*) of the said section];

(*n*) the form of accounts to be maintained, the agency of audit and the terms and conditions of audit, under section 35;

(*o*) the manner in which and the purposes for which balances of the fund and the interest accruing thereon shall be expended under sub-section (*2*) of section 37;

(*p*) the other purposes for which sinking fund may be applied under section 38;

(*q*) the notice to be given under section 41;

(*r*) the manner in which the documents, plans and maps relating to the sanctioned scheme shall be accessible to the public under the proviso to sub-section (*2*) of section 43;

(*s*) any other matter which is or may be prescribed under this Act.

(*3*) All rules made under this section shall be subject to the condition of previous publication.

[1] This portion was added by Bom. 54 of 1953, s. 8 (*3*).

BOMBAY ACT No. LXXVIII OF 1948.[1]

[THE CODE OF CRIMINAL PROCEDURE (BOMBAY THIRD AMENDMENT) ACT, 1948.]

[*31st December 1948.*]

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

V of 1898. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Code of Criminal Procedure (Bombay Third Amendment) Act, 1948.

Insertion of new section 539C in Act V of 1898. V of 1898. **2.** After section 539B of the Code of Criminal Procedure, 1898, the following section shall be inserted, namely:—

Other powers of Magistrates. "539C. Any Magistrate shall be entitled to attest, verify or authenticate documents brought before him for the purpose of attestation, verification or authentication, as the case may be, and to affix seals thereon, as may be prescribed by the Bombay Public Authorities Seals Act, 1883, or any other law for the time being in force." Bom. V of 1883.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, p. 560.

THE BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1948.

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BOMBAY ACT No. LXXIX OF 1948.[1]

[THE BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1948.]

[*11th January 1949*]

Amended by Bom. 17 of 1949.
" " " 58 of 1949.
" " " 59 of 1949.
" " " 8 of 1959.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 9 of 1951.
" " " 28 of 1952.
" " " 58 of 1954.

An Act to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments.

WHEREAS it is expedient to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for certain other purposes hereinafter specified; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and operation.

1. (*1*) This Act may be called the Bombay Shops and Establishments Act, 1948.

(*2*) It extends to the whole of the [2][State] of Bombay.

(*3*) It shall in the first instance come into force in the local areas specified in Schedule I.

(*4*) The [3][State] Government shall by notification published in the *Official Gazette* direct that all or any of the provisions of this Act shall come into force in such other local areas having a population of twenty-five thousand and more as may be specified in the notification.

(*5*) The [3][State] Government may also by a like notification direct that all or any of the provisions of this Act shall come into force in such local areas having population less than twenty-five thousand as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Apprentice" means a person who is employed, whether on payment of wages or not, for the purpose of being trained, in any trade, craft or employment in any establishment;

(*2*) "Child" means a person who has not completed his twelfth year;

(*3*) "Closed" means not open for the service of any customer or open to any business connected with the establishment;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 499.
[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word "Provincial", *ibid*.

(*4*) "Commercial establishment" means an establishment which carries on any business, trade or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession and includes a society registered under the Societies Registration Act, 1860, and a charitable or other trust, whether registered or not, which carries on [1][, whether for purposes of gain or not,] any business, trade or profession or work in connection with or incidental or ancillary thereto but does not include a factory, shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment; XXI of 1860.

(*5*) "Day" means the period of twenty-four hours beginning at midnight: Provided that in the case of an employee whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences irrespective of midnight;

(*6*) "Employee" means a person wholly or principally employed in, and in connection with, any establishment and includes an apprentice but does not include a member of the employer's family;

(*7*) "Employer" means a person owning or having ultimate control over the affairs of an establishment;

(*8*) "Establishment" means a shop, commercial establishment, residential hotel, restaurant, eating house, theatre, or other place of public amusement or entertainment to which this Act applies and includes such other establishment as the [2][State] Government may, by notification in the *Official Gazette*, declare to be an establishment for the purposes of this Act;

(*9*) "Factory" means any premises which is a factory within the meaning of [3][clause (*m*) of section 2 of the Factories Act, 1948, or which is deemed to be a factory under section 85 of the said Act]; LXIII of 1948.

(*10*) "Goods" includes all materials, commodities and articles;

(*11*) "Holiday" means a day on which an establishment shall remain closed or on which an employee shall be given a holiday under the provisions of this Act;

(*12*) "Inspector" means an Inspector appointed under section 48;

(*13*) "Leave" means leave provided for in Chapter VII of this Act;

(*14*) "Local area" means any area or combination of areas to which this Act applies;

[4][(*15*) "Local authority" means a municipal corporation constituted under the Bombay Municipal Corporation Act or the Bombay Provincial Municipal Corporations Act, 1949, a municipality constituted under the Bombay District Municipal Act, 1901, or the Bombay Municipal Boroughs Act, 1925, or a local board constituted under the Bombay Local Boards Act, 1923;] Bom. III of 1888. Bom. LIX of 1949. Bom. III of 1901. Bom. XVIII of 1925. Bom. VI of 1923.

(*16*) "Manager" means a person declared to be a manager under section 7;

(*17*) "Member of the family of an employer" means the husband, wife, son, daughter, father, mother, brother or sister of an employer who lives with and is dependent an such employer;

(*18*) "Opened" means opened for the service of any customer;

(*19*) "Period of work" means the time during which an employee is at the disposal of the employer;

(*20*) "Prescribed" means prescribed by rules made under this Act;

(*21*) "Prescribed authority" means the authority prescribed under the rule made under this Act;

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[1] These words were inserted by Bom. 28 of 1952, s. 2(*1*).
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] This portion was substituted for the original, by Bom. 17 of 1949, s. 2.
[4] Clause (15) was substituted for the original, by Bom. 28 of 1952, s. 2(*2*).

(*22*) "Register of establishments" means a register maintained for the registration of establishments under this Act;

(*23*) "Registration certificate" means a certificate showing the registration of an establishment;

(*24*) "Residential hotel" means any premises used for the reception of guests and travellers desirous of dwelling or sleeping therein and includes a [1][residential club];

(*25*) "Restaurant or eating house" means any premises in which is carried on wholly or principally the business of the supply of meals or refreshments to the public or a class of the public for consumption on the premises;

(*26*) "Schedule" means a Schedule appended to this Act;

(*27*) "Shop" means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers, and includes an office, a store room, godown, warehouse or work place, whether in the same premises or otherwise, [2][mainly used] in connection with such trade or business but does not include a factory, a commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

(*28*) "Spread over" means the period between the commencement and the termination of the work of an employee on any day;

(*29*) "Theatre" includes any premises intended principally or wholly for the exhibition of pictures or other optical effects by means of a cinematograph or other suitable apparatus or for dramatic performances or for any other public amusement or entertainment;

IV of 1936. (*30*) "Wages" means wages as defined in the Payment of Wages Act, 1936;

(*31*) "Week" means the period of seven days beginning at midnight of Saturday;

(*32*) "Year" means a year commencing on the first day of April;

(*33*) "Young person" means a person who is not a child and has not completed his seventeenth year.

Reference to time of day.

3. References to the time of day in this Act are references to Indian standard time which is five and a half hours ahead of Greenwich mean time.

Exemptions.

4. Notwithstanding anything contained in this Act, the provisions of this Act mentioned in the third column of Schedule II shall not apply to the establishments, employees and other persons mentioned against them in the second column of the said Schedule:

Provided that the [3][State] Government may, by notification published in the *Official Gazette*, add to, omit or alter any of the entries of the said Schedule [4][subject to such conditions, if any, as may be specified in such notification] and on the publication of such notification, the entries in either column of the said Schedule shall be deemed to be amended accordingly.

Application of Act to other establishments and persons.

5. (*1*) Notwithstanding anything contained in this Act, the [3][State] Government may, by notification in the *Official Gazette*, declare any establishment or class of establishments to which, or any person or class of persons to whom, this Act or any of the provisions thereof does not for the time being apply, to be an establishment or class of establishments or a person or class of persons to which or whom this Act or any provisions thereof with such modifications or adaptations

[1] These words were substituted for the word "club" by Bom. 9 of 1951, s. 3, Second Schedule.
[2] These words were substituted for the word "used" by Bom. 28 of 1952, s. 2 (*3*).
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] These words were inserted by Bom. 28 of 1952, s. 3.

as may in the opinion of the [1][State] Government be necessary shall apply from such date as may be specified in the notification.

(2) On such declaration under sub-section (1), any such establishment or class of establishments or such person or class of persons shall be deemed to be an establishment or class of establishments to which, or to be an employee or class of employees to whom, this Act applies and all or any of the provisions of this Act with such adaptation or modification as may be specified in such declaration, shall apply to such establishment or class of establishments or to such employee or class of employees.

Suspension of all or any of the provisions of this Act.

6. The [1][State] Government may, by notification in the *Official Gazette*, suspend the operation of all or any of the provisions of this Act for such period and subject to such conditions as it deems fit on account of any holidays or occasions.

CHAPTER II.

REGISTRATION OF ESTABLISHMENTS.

Registration of establishments.

7. (1) Within the period specified in sub-section (4), the employer of every establishment shall send to the Inspector of the local area concerned a statement, in a prescribed form, together with such fees as may be prescribed, containing—

(a) the name of the employer and the manager, if any;

(b) the postal address of the establishment;

(c) the name, if any, of the establishment;

(d) the category of the establishment, *i.e.*, whether it is a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment; and

(e) such other particulars as may be prescribed.

(2) On receipt of the statement and the fees, the Inspector shall, on being satisfied about the correctness of the statement, register the establishment in the register of establishments in such manner as may be prescribed and shall issue, in a prescribed form, a registration certificate to the employer. The registration certificate shall be prominently displayed at the establishment.

(3) In the event of any doubt or difference of opinion between an employer and the Inspector as to the category to which an establishment should belong, the Inspector shall refer the matter to the prescribed authority which shall, after such inquiry as it thinks proper, decide the category of such establishment and its decision shall be final for the purposes of this Act.

(4) Within thirty days from the date mentioned in column 2 below in respect of an establishment mentioned in column 1, the statement together with fees shall be sent to the Inspector under sub-section (1):—

1 Establishments.	2 Date from which the period of 30 days to commence.
(i) Establishments existing in local areas mentioned in Schedule I on the date on which this Act comes into force.	The date on which this Act comes into force.
(ii) Establishments existing in local areas on the date on which this section comes into force.	The date on which this section comes into force in the local area.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

1 Establishments.	2 Date from which the period of 30 days to commence.
(*iii*) New establishments in local areas mentioned in Schedule I and other local areas in which this section has come into force.	The date on which the establishment commences its work.

Change to be communicated to Inspector.

8. It shall be the duty of an employer to notify to the Inspector, in a prescribed form, [1][any change in any of the particulars contained in the statement submitted under section 7 within such period, after the change has taken place, as the State Government may prescribe in respect of any establishment or class of establishments]. The Inspector shall, on receiving such notice and the prescribed fees and on being satisfied about its correctness, make the change in the register of establishments in accordance with such notice and shall amend the registration certificate or issue a fresh registration certificate, if necessary.

Closing of establishment to be communicated to Inspectors.

9. The employer shall, within ten days on his closing the establishment, notify to the Inspector in writing accordingly. The Inspector shall, on receiving the information and being satisfied about its correctness, remove such establishment from the register of establishments and cancel the registration certificate:

[2][Provided that if the Inspector does not receive the information but he is otherwise satisfied that the establishment has been closed, he may remove such establishment from such register and cancel such certificate.]

CHAPTER III.

SHOPS AND COMMERCIAL ESTABLISHMENTS.

Opening hours of shops.

10. (*1*) No shop—

(*a*) dealing wholly in milk, vegetables, fruits, fish, meat, bread or any other goods notified by the [3][State] Government shall on any day be opened earlier than 5 a.m.;

(*b*) [4]* * * other than those specified in clause (*a*) of this sub-section, shall on any day be opened earlier than 7-0 a.m.

(*2*) Subject to the provisions of sub-section (*1*), the [3][State] Government may fix later opening hours for different classes of shops or for different areas or for different periods of the year.

Closing hours of shops.

11. (*1*) Notwithstanding anything contained in any other enactment for the time being in force, no shop—

(*a*) [4]* * * other than those specified in clause (*b*) of this sub-section, shall on any day be closed later than 8-30 p.m.;

(*b*) dealing in *pan, bidi*, cigarettes, matches and other ancillary articles shall on any day be closed later than 11-0 p.m.:

Provided that any customer who was being served or was waiting to be served at such closing hour in any shop may be served in such shop during the quarter of an hour immediately following such hour.

(*2*) Subject to the provisions of sub-section (*1*), the [3][State] Government may fix earlier closing hours for different classes of shops or for different areas or for different periods of the year.

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[1] This portion was substituted for the portion beginning with the words "any change" and ending with the words "taken place" by Bom. 28 of 1952, s. 4

[2] This proviso was added, *ibid*, s. 5.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The words "dealing in goods" were deleted by Bom. 53 of 1949, s. 2, First Schedule.

Hawking prohibited before opening and after closing hours of shops.

12. (*1*) No person shall carry on in or adjacent to a street or a public place the sale of any goods before the opening and after the closing hours fixed under sections 10 and 11 for the shops dealing in the same class of goods in the locality in which such street or public place is situate.

(*2*) Any person contravening the provisions of sub-section (*1*) shall be liable to have his goods seized by an Inspector.

[1][(*3*) The goods seized under sub-section (*2*) shall be returned to the person from whom they were seized on his depositing rupees twenty-five as security for his appearance in the Court.

(*4*) If the person fails to make the deposit, the goods seized shall be produced without delay before a Magistrate who may give such directions as to their temporary custody as he thinks fit.

(*5*) Where no prosecution is instituted for contravention of the provisions of sub-section (*1*) within such period as the Magistrate may fix in this behalf, the Magistrate shall direct their return to the person from whom they were seized.

(*6*) Subject to the provisions of the preceding sub-section, the provisions of the Code of Criminal Procedure, 1898, shall so far as they may be applicable, apply to the disposal of the goods seized under this section.] V of 1898.

Opening and closing hours of commercial establishments.

13. (*1*) No Commercial establishment shall on any day be opened earlier than 8-30 a.m. and closed later than 8-30 p.m.

(*2*) Subject to the provisions of sub-section (*1*), the [2][State] Government may fix later opening or earlier closing hours for different classes of commercial establishments or for different areas or for different periods of the year.

Daily and weekly hours of work in shops and commercial establishments.

14. (*1*) Subject to the provisions of this Act, no employee shall be required or allowed to work in any shop or commercial establishment for more than nine hours in any day and forty-eight hours in any week.

(*2*) Any employee may be required or allowed to work in a shop or commercial establishment for any period in excess of the limit fixed under sub-section (*1*), if such period does not exceed three hours in any week.

(*3*) On not more than six days in a year which the [2][State] Government may fix by rules made in this behalf, for purposes of making of accounts, stock taking, settlements or other prescribed occasions, any employee may be required or allowed to work in a shop or commercial establishment in excess of the period fixed under sub-section (*1*), if such excess period does not exceed twenty-four hours.

Interval for rest.

[3][**15.** The period of work of an employee in a shop or commercial establishment each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour.]

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[1] Sub-sections (*3*) to (*6*) were substituted for the proviso by Bom. 28 of 1952, s. 6.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] Section 15 was substituted for the original by Bom. 28 of 1952, s. 7.

Spread-over in shops.

16. The spread-over of an employee in a shop shall not exceed eleven hours in any day :

Provided that in cases where any shop is on any day entirely closed for a continuous period of not less than three hours, the spread-over shall not exceed twelve hours in that day :

Provided also that where an employee works on any day in accordance with the provisions of sub-section (*2*) of section 14, the spread-over shall not exceed fourteen hours in any such day and where he works on any day in accordance with the provisions of sub-section (*3*) of the said section, the spread-over shall not exceed sixteen hours in any such day.

Spread-over in commercial establishments.

17. The spread-over of an employee in a commercial establishment shall not exceed eleven hours in any day :

Provided that the [1][State] Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular commercial establishment or a class or classes of commercial establishments.

Holidays in a week in shops and commercial establishments.

18 [2][(*1*) Every shop and commercial establishment shall remain closed on one day of the week. The employer shall prepare a calendar or list of such closed days at the beginning of the year, notify such calendar or list to the Inspector and specify it in a notice prominently displayed in a conspicuous place in the shop or commercial establishment.

(*1A*) Notwithstanding anything contained in sub-section (*1*), a shop or commercial establishment may remain open on any day notified as closed day under sub-section (*1*), if—

(*a*) it remains closed on any other day of the week ; and

(*b*) the employer has notified to the Inspector, his intention to close the shop or the commercial establishment, as the case may be, on the day substituted under clause (*a*), at least seven days before the substituted day or the day notified as closed day under sub-section (*1*), whichever is earlier.]

(*2*) It shall not be lawful for an employer to call an employee at, or for an employee to go to his shop or commercial establishment or any other place for any work in connection with the business of his shop or commercial establishment on a day on which such shop or commercial establishment remains closed.

(*3*) No deduction shall be made from the wages of any employee in a shop or commercial establishment on account of any day on which it has remained closed under this section. If any employee is employed on a daily wage, he shall none the less be paid his daily wage for the day on which such shop or commercial establishment remains closed. [3][If any employee is paid a piece rated wage, he shall none the less be paid his wage for the day on which the shop or commercial establishment remains closed, at a rate equivalent to the daily average of his wages for the days on which he has actually worked during the six days preceding such closed day, exclusive of any earning in respect of overtime :]

[4][Provided that nothing in this sub-section shall apply to any person whose total period of continuous employment is less than six days.]

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] Sub-sections (*1*) and (*1A*) were substituted for the original sub-section (*1*), by Bom. 28 of 1952, s. 8 (*1*).
[3] This portion was added, *ibid*, s. 8 (*2*).
[4] This provise was added, *ibid*, s. 8 (*3*).

CHAPTER IV.

RESIDENTIAL HOTELS, RESTAURANTS AND EATING HOUSES.

Opening and closing hours of restaurants and eating houses.

19. (*1*) Notwithstanding anything contained in any other enactment for the time being in force, no restaurant or eating house shall on any day be opened earlier than 5 a.m. and closed later than 11 p.m. for service:

Provided that an employee in such restaurant or eating house may be required to commence work not earlier than 4-30 a.m. and shall not be required to work later than 11-30 p.m.:

Provided also that any customer who was being served or waiting to be served at the closing hour of such restaurant or eating house may be served in such restaurant or eating house during the quarter of an hour immediately following such hour.

(*2*) Subject to the provisions of sub-section (*1*), the [1][State] Government may fix later opening or earlier closing hours for different restaurants or eating houses or for different areas or for different periods of the year.

(*3*) Notwithstanding anything contained in this section or any other enactment for the time being in force on not more than ten days in a year on festive or special occasions, the [1][State] Government may, by notification in the *Official Gazette*, fix such opening and closing hours for different restaurants or eating houses or for different areas, as it thinks proper.

Restaurants and eating houses not to sell goods of the kind sold in shops before the opening and after the closing hours of shops.

20. Before and after the hours fixed for the opening and closing of shops under sections 10 and 11, no goods of the kind sold in such shops shall be sold in any restaurant or eating house except for consumption on premises.

Daily hours of work in residential hotels, restaurants and eating houses.

21. (*1*) Except on the days that may be notified under sub-section (*3*) of section 19, no employee shall be required or allowed to work in any residential hotel, restaurant or eating house for more than nine hours in any day.

(*2*) On the days which may be notified under sub-section (*3*) of section 19, any employee may be required or allowed to work in a residential hotel, restaurant or eating house in excess of the period fixed under sub-section (*1*), if such excess period does not exceed three hours in any day

Interval for rest.

[2][**22.** The period of work of an employee in a residential hotel, restaurant, or eating house each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour.]

Spread-over.

23. The spread-over of an employee in a residential hotel, restaurant or eating house shall not exceed fourteen hours:

Provided that the [1][State] Government may increase the spread-over period subject to such conditions as it may impose on the days that may be notified under sub-section (*3*) of section 19.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] Section 22 was substituted for the original by Bom. 28 of 1952, s. 9.

Holidays in a week.

24. (*1*) Every employee in a residential hotel, restaurant or eating house shall be given at least one day in a week as a holiday:

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(*2*) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his residential hotel, restaurant or eating house or any other place for any work in connection with the business of his residential hotel, restaurant or eating house on a day on which such employee has a holiday.

(*3*) No deduction shall be made from the wages of any employee in a residential hotel, restaurant or eating house on account of any holiday given to him under sub-section (*1*). If an employee is employed on a daily wage, he shall none the less be paid his daily wage for the holiday.

Employer to furnish identity card to employee.

25. The employer shall furnish every employee in a residential hotel, restaurant or eating house an identity card which shall be produced by the employee on demand by an Inspector. Such card shall contain the following and such other particulars as may be prescribed, namely:—

(*a*) the name of the employer;

(*b*) the name, if any, and the postal address, of the establishment;

(*c*) the name and age of the employee;

(*d*) the hours of work, the interval for rest and the holiday, of the employee;

[1][(*e*) the signature (with date) of the employer or manager.]

CHAPTER V.

THEATRES OR OTHER PLACES OF PUBLIC AMUSEMENT OR ENTERTAINMENT.

Closing hour of theatres or other places of public amusement or entertainment.

26. Notwithstanding anything contained in any other enactment for the time being in force, no theatre or other place of public amusement for entertainment shall, on any day, be closed later than twelve midnight.

Theatres or other places of public amusement or entertainment not to sell goods of the kind sold in shops after the closing hour of shops.

27. After the hour fixed for the closing of shops under section 11, no goods of the kind sold in a shop shall be sold in any theatre or other place of public amusement or entertainment except for consumption on premises.

Daily hours of work in theatres or other places of public amusement or entertainment.

[2][**28.** (*1*) No employee shall be required or allowed to work in any theatre or other places of public amusement or entertainment for more than nine hours in any day.

(*2*) Any employee may be required or allowed to work in a theatre or other place of public amusement or entertainment for any period in excess of the limit fixed under sub-section (*1*), if such period does not exceed six hours in any week.]

[1] Clause (*e*) was added by Bom. 28 of 1952, s. 10.

[2] Section 28 was substituted for the original, *ibid*, s. 11.

Interval for rest.

[1][29. The period of work of an employee in a theatre or other place of public amusement or entertainment each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour.]

Spread-over.

30. The spread-over of an employee in a theatre or other place of public amusement or entertainment shall not exceed eleven hours in any day :

Provided that the [2][State] Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular theatre or other place of public amusement or entertainment.

Holidays in a week.

31. (*1*) Every employee in a theatre or other place of public amusement or entertainment shall be given at least one day in a week as a holiday :

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(*2*) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his theatre or other place of public amusement or entertainment or any other place for any work in connection with the business of his theatre or place of public amusement or entertainment on a day on which such employee has a holiday.

(*3*) No deduction shall be made from the wages of an employee in a theatre or other place of public amusement or entertainment on account of any holiday given to him under sub-section (*1*). If any employee is employed on a daily wage, he shall none the less be paid his daily wage for the holiday given to him.

CHAPTER VI.

Employment of Children, Young Persons and Women.

No child to work in any establishment.

32. No child shall be required or allowed to work whether as an employee or otherwise in any establishment, notwithstanding that such child is a member of the family of the employer.

Young persons and women to work between 6 a.m. and 7 p.m.

33. No young person or woman shall be required or allowed to work whether as an employee or otherwise in any establishment before 6 a.m. and after 7 p.m., notwithstanding that such young person or woman is a member of the family of the employer.

Daily hours of work for young persons.

34. (*1*) Notwithstanding anything contained in this Act, no young person shall be required or allowed to work, whether as an employee or otherwise, in any establishment for more than six hours in any day.

(*2*) No young person shall be required or allowed to work whether as an employee or otherwise in any establishment for more than three hours in any day unless he has had an interval for rest of at least half an hour.

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[1] Section 29 was substituted for the original by Bom. 28 of 1952, s. 12.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

CHAPTER VII.

Leave with Pay and Payment of Wages.

Leave.

35. (*1*) Every employee who has worked for not less than two hundred and seventy days during a year, shall be allowed, during the subsequent year, leave, consecutive or otherwise, for a period of not less than fourteen days, inclusive of the day or days during the period of such leave, on which, a shop or commercial establishment remains closed under sub-section (*1*) of section 18 or he is entitled to a holiday under sub-section (*1*) of section 24 or section 31 :

Provided that such leave may be accumulated up to a maximum period of twenty-eight days.

[1][(*1A*) If the services of an employee who has been in the employment for not less than a year and who has worked for ninety days or more, but for less than two hundred and seventy days during any subsequent year, are terminated in such year in the circumstances specified in sub-section (*2*), he shall, in addition to the leave under sub-section (*1*), become entitled to such leave in such year for the number of days which bears to fourteen days, the same proportion, as the number of days for which he worked bears to two hundred and seventy days.]

(*2*) If an employee entitled to leave under sub-section (*1*) [2][or (*1A*)] is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay him the amount payable under section 36 in respect of the leave.

(*3*) If an employee entitled to leave under sub-section (*1*) [2][or (*1A*)] is refused the leave, he may give intimation to the Inspector or any other officer authorized in this behalf by the [3][State] Government regarding such refusal. The Inspector shall enter such intimation in a register kept in such form as may be prescribed.

Pay during leave.

36. Every employee shall be paid for the period of his leave at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

Payment, when to be made.

37. An employee who has been allowed leave under section 35 shall, before his leave begins, be paid half the total amount due to him for the period of such leave.

IV of 1936.

Application and amendment of the Payment of Wages Act.

38. (*1*) Notwithstanding anything contained in the Payment of Wages Act, 1936, herein referred to as " the said Act ", the [3][State] Government may, by notification published in the *Official Gazette*, direct that subject to the provisions of sub-section (*2*) the said Act [4][shall, in such local areas as may be specified in the notification apply] to all or any class of establishments or to all or any class of employees to which or whom this Act for the time being applies.

(*2*) On the application of the provisions of the said Act to any establishment or to any employees under sub-section (*1*), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

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[1] Sub-section (*1A*) was inserted by Bom. 28 of 1952, s. 13 (*1*).
[2] This portion was inserted, *ibid.*, s. 13(*2*).
[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[4] These words were substituted for the words " shall apply " by Bom. 58 of 1954, s. 2, Schedule.

CHAPTER VIII.

HEALTH AND SAFETY.

Cleanliness.

39. The premises of every establishment shall be kept clean and free from effluvia arising from any drain or privy or other nuisance and shall be cleaned at such times and by such methods as may be prescribed. These methods may include lime washing, colour washing, painting, varnishing, disinfecting and deodorising.

Ventilation.

40. The premises of every establishment shall be ventilated in accordance with such standards and by such methods as may be prescribed.

Lighting.

41. (*1*) The premises of every establishment shall be sufficiently lighted during all working hours.

(*2*) If it appears to an Inspector that the premises of any establishment within his jurisdiction are not sufficiently lighted, he may serve on the employer an order in writing specifying the measures which in his opinion should be adopted and requiring them to be carried out before a specified date.

Precautions against fire.

42. In every establishment except such establishment or class of establishments as may be prescribed, such precautions against fire shall be taken as may be prescribed.

First Aid.

[1][**42A.** In every establishment wherein a manufacturing process as defined in clause (*k*) of section 2 of the Factories Act, 1948, is carried on, there shall be provided and maintained a first aid box containing such articles as may be prescribed.] LXIII of 1948.

CHAPTER IX.

ENFORCEMENT AND INSPECTION.

Powers and duties of local authorities.

43. Save as otherwise provided in this Act, it shall be the duty of every local authority to enforce, within the area subject to its jurisdiction, the provisions of this Act, subject to such supervision of the [2][State] Government as may be prescribed :

Provided that the local authority may by order direct that the said duty of enforcing the provisions of this Act shall be discharged, in such circumstances and subject to such conditions if any as may be specified in the order, by its Chief Executive Officer or any other officer subordinate to it :

Provided also that in respect of the areas not subject to the jurisdiction of any local authority, it shall be the duty of the [2][State] Government to enforce the said provisions.

Power to make by-laws.

44. A local authority empowered under section 43 to enforce the provisions of this Act may, with the previous sanction of the [2][State] Government, make by-laws not inconsistent with the provisions of the Act, or the rules or orders made by th [2][State] Government thereunder, for the purpose of carrying out the provisions of this Act.

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[1] Section 42A was inserted by Bom. 28 of 1952, s. 14.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Delegation.

45. (*1*) The [1][State] Government may by order direct that any of its functions under any of the provisions mentioned below shall, in such circumstances and subject to such conditions, if any, as may be specified in the order, be exercised or discharged by any local authority or any officers subordinate to it, namely :—

Sub-section (*2*) of section 11, sub-section (*2*) of section 13, section 17, sub-sections (*2*) and (*3*) of section 19, section 23 and section 30.

(*2*) Nothing in this Act shall derogate from the right of the [1][State] Government to exercise any or all the functions hereby delegated to any local authority or officer subordinate to it.

Power of [1][State] Government to provide for performance of duties on default by local authority.

46. (*1*) If any local authority makes default in the performacne of any duty imposed by or uader this Act, the [1][State] Government may appoint some person to perform it and may direct that the expense of performing it with a reasonable remuneration to the person appointed to perform it shall be paid forthwith by the local authority.

(*2*) If the expense and remuneration are not so paid, the [1][State] Government may, notwithstanding anything contained in any law relating to the municipal fund or local fund or any other law for the time being in force, make an order directing the bank in which any moneys of the local authority are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the local authority are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the local authority in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the local authority by way of deposit by such bank or person ; and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the local authority in respect of any sum or sums so paid by it or him out of the moneys of the local authority so deposited with such bank or person.

Expenses of local authority to be paid out of its fund.

47. Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a municipality or a local board under and for the purposes of this Act shall be paid out of the municipal or local fund, as the case may be.

Appointment of inspectors.

48. (*1*) Every local authority shall appoint a sufficient number of persons with the prescribed qualifications as Inspectors for the area subject to its jurisdiction as it may deem fit for the purpose of carrying out the provisions of this Act.

(*2*) In areas which are not subject to the jurisdiction of any local authority, the [1][State] Government shall appoint Inspectors with the prescribed qualifications.

Powers and duties of Inspectors.

49. Subject to any rules made by the [1][State] Government in this behalf, an Inspector may, within the local limits for which he is appointed,—

(*a*) enter, at all reasonable times and with such assistants, if any, being persons in the service of the [2][Government] or of any local authority as he thinks fit, any place which is or which he has reason to believe is an establishment ;

(*b*) make such examination of the premises and of any prescribed registers, records and notices, and take on the spot or otherwise evidence of any persons as he may deem necessary, for carrying out the purposes of this Act ; and

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word " Crown ", *ibid.*

(*c*) exercise such other powers as may be necessary for carrying out the purposes of this Act :

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

Inspectors to be public servants.

50. Every Inspector appointed under section 48 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Employer [2][and manager] to produce registers, records, etc., for inspection.

51. Every employer [1][and in his absence the manager] shall on demand produce for inspection of an Inspector all registers, records and notices required to be kept under and for the purposes of this Act.

CHAPTER X.

OFFENCES AND PENALTIES.

Contravention of certain provisions and offences.

52. (*a*) If any employer fails to send to the Inspector a statement within the period specified in section 7 or to notify a change within the period specified in section 8 or to notify the closing of his establishment under section 9 ; or

(*b*) if in any establishment there is any contravention of any of the provisions of section 10, 11, 13, 18, 19, 20, 26, 27, 39, 40, 41 or 42 or any orders made thereunder ; or

(*c*) if in any establishment any person is required or allowed to work in contravention of section 14, 15, 16, 17, 21, 22, 23, 24, 28, 29, 30 or 31 ; or

(*d*) if in any establishment a child or young person or woman is required or allowed to work in contravention of section 32, 33 or 34 ; or

[3][(*e*) if any employer or manager contravenes the provisions of section 51 or any employer contravenes the provisions of section 62 or 65 ; or]

(*f*) if in any establishment there is any contravention of any section, rule or order for which no specific punishment is provided in this Act,

the employer and the manager shall, on conviction, each be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupees.

Contravention of section 12.

53. If any person contravenes the provisions of section 12, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees.

Employee contravening sections 18 (*2*), 24, 31 and 65.

54. If an employee contravenes the provisions of sub-section (*2*) of section 18, 24, 31 or 65, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees.

False entries by employer and manager.

55. If any employer or manager with intent to deceive makes, or causes or allows to be made, in any register, record or notice prescribed to be maintained under the provisions of this Act or the rules made thereunder, an entry which, to his knowledge, is false in any material particular, or wilfully omits or causes or allows to be omitted, from any such register, record or notice, an entry which is required to be made therein under the provisions of this Act or the rules made thereunder, or maintains or causes or allows to be maintained, more than one set of any register, record or notice except the office copy of such notice, or sends, or

[1] These words were inserted by Bom. 28 of 1952, s. 15 (*1*).
[2] These words were inserted, *ibid*, s. 15 (*2*).
[3] Clause (*e*) was substituted for the original, *ibid*, s. 16.

causes or allows to be sent, to an Inspector, any statement, information or notice prescribed to be sent under the provisions of this Act or the rules made thereunder, which, to his knowledge, is false in any material particular, he shall, on conviction, be punished with fine which shall not be less than fifty rupees and which may extend to two hundred and fifty rupees :

Provided that if both the employer and the manager are convicted, the aggregate of the fine in respect of the same contravention shall not exceed two hundred and fifty rupees.

Enhanced penalty in certain cases after previous conviction.

56. If any employer and manager who have been convicted of any offence under sub-section (*1*) of section 10, 11, 13, 14, 18,19, 24, 31, or 34 or under sub-section (*2*) or (*3*) of section 14 or under section 55 or under section 21, 26, 28, 32, 33, 51, 57, 62 or 65, are again guilty of an offence involving a contravention of the same provision, they shall each be punished on the second conviction with fine which shall not be less than fifty rupees and which may extend to five hundred rupees ; and if they are again so guilty, they shall each be punished on the third or any subsequent conviction with fine which shall not be less than seventy-five rupees and which may extend to seven hundred and fifty rupees :

Provided that if both the employer and the manager are convicted, the aggregate of the fine in respect of the same contravention shall not exceed five hundred rupees on second conviction and seven hundred and fifty rupees on third or any subsequent conviction :

Provided further that, for the purposes of this section, no cognisance shall be taken of any conviction made more than two years before the commission of the offence which is being punished :

Provided also that the Court, if it is satisfied that there are exceptional circumstances warranting such a course, may, after recording its reasons in writing, impose a smaller fine than is required by this section.

Penalty for obstructing Inspector.

57. Whoever wilfully obstructs an Inspector in the exercise of any power under section 49, or conceals or prevents any employee in an establishment from appearing before or being examined by an Inspector, shall, on conviction, be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupees.

Determination of employer for the purposes of this Act.

58. (*1*) Where the owner of an establishment is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Act for any offence for which an employer in an establishment is punishable :

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the [1][State] to be the employer for the purposes of this Act and such individual shall so long as he is so resident be deemed to be the employer for the purposes of this Act, until further notice cancelling the nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(*2*) Where the owner of an establishment is a company, any one of the directors thereof, or in the case of a private company, any one of the share holders thereof, may be prosecuted and punished under this Act for any offence for which the employer in the establishment is punishable :

Provided that the company may give notice to the Inspector that it has nominated a director or, in the case of a private company, a share holder who is resident in the [1][State] to be the employer in the establishment for the purposes of this Act,

[1] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.

and such director or share holder shall so long as he is so resident be deemed to be the employer in the establishment for the purposes of this Act, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or share holder.

Exemption of employer or manager from liability in certain cases.

59. (*1*) Where the employer or manager of an establishment is charged with an offence against this Act or the rules or orders made thereunder, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge ; and if, after the commission of the offence has been proved, the employer or manager of the establishment proves to the satisfaction of the Court—

(*a*) that he has used due diligence to enforce the execution of this Act, and

(*b*) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like fine as if he were the employer or manager, and the employer or manager shall be discharged from any liability under this Act.

(*2*) When it is made to appear to the satisfaction of the Inspector at any time prior to the institution of the proceedings—

(*a*) that the employer or manager of the establishment has used all due diligence to enforce the execution of this Act,

(*b*) by what person the offence has been committed, and

(*c*) that it has been committed without the knowledge, consent or connivance of the employer or manager, and in contravention of his orders,

the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding, against the employer or manager of the establishment, and such person shall be liable to the like fine as if he were the employer or manager.

Cognisance of offences.

60. (*1*) No prosecution under this Act or the rules or orders made thereunder shall be instituted except by an Inspector and except with the previous sanction of the [1][District Magistrate] or the local authority, as the case may be :

[2][Provided that any local authority may direct that the powers conferred on it by this sub-section shall, in such circumstances and subject to such conditions, if any, as may be specified in the direction, be exercised by its standing committee or by any committee appointed by it in this behalf or, if such local authority is a municipal corporation, by its Municipal Commissioner.]

(*2*) No court inferior to that of a Presidency Magistrate or a Magistrate of a Second Class shall try any offence against this Act or any rule or order made thereunder.

Limitation of prosecution.

61. No court shall take cognisance of any offence under this Act or any rule or order made thereunder, unless complaint thereof is made within [3][three months from the date on which the alleged commission of the offence came to the knowledge of an Inspector].

CHAPTER XI.

MISCELLANEOUS AND SUPPLEMENTAL.

Maintenance of registers and records and display of notices.

62. Subject to the general or special orders of the [4][State] Government, an employer shall maintain such registers and records and display on the premises of his establishment such notices as may be prescribed. All such registers and records shall be kept on the premises of the establishment to which they relate.

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[1] These words were substituted for the words "State Government" by Bom. 9 of 1951, s. 3, Second Schedule.

[2] This proviso was added by Bom. 28 of 1952, s. 17.

[3] These words were substituted for the words "six months of the date on which the offence is alleged to have been committed", *ibid*, s. 18.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Wages for overtime work.

63. (*1*) Where an employee in any establishment other than a residential hotel, restaurant or eating house, is required to work in excess of the limit of hours of work, he shall be entitled, in respect of the overtime work, to wages at the rate of one and a half times his ordinary rate of wages.

(*2*) Where an employee in a residential hotel, restaurant or eating house, is required to work in excess of the limit of hours of work, he shall be entitled, in respect of the overtime work, to wages at the rate of twice his ordinary rate of wages.

Explanation.—For the purposes of this section the expression "limit of hours of work" shall mean—

(*a*) in the case of employees in shops and commercial establishments, nine hours in any day and forty-eight hours in any week;

(*b*) in the case of employees in residential hotels, restaurants, eating houses, theatres or other places of public amusement or entertainment, nine hours in any day; and

(*c*) in the case of employees in any other establishment, such hours as may be prescribed.

Evidence as to age.

64. (*1*) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, the burden shall be on the accused to prove that such person is not under or over such age.

(*2*) A declaration in writing by a [1][qualified medical practitioner] relating to an employee that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of the employee.

Explanation.—For the purposes of this section, a [1][qualified medical practitioner] shall have the same meaning as in the Factories Act, [2][1948].

LXIII of 1948.

Restriction on double employment on a holiday or during leave.

65. No employee shall work in any establishment, nor shall any employer knowingly permit an employee to work in any establishment, on a day on which the employee is given a holiday or is on leave in accordance with the provisions of this Act.

Notice of dismissal.

66. No employer shall dispense with the services of an employee who has been in his continuous employment for not less than three months, without giving such person at least fourteen days' notice in writing or wages in lieu of such notice:

Provided that such notice shall not be necessary where the services of such employee are dispensed with for misconduct.

[3][*Explanation.*—For the purposes of this section, "misconduct" shall include—

(*a*) absence from service without notice in writing or without sufficient reasons for seven days or more;

(*b*) going on or abetting a strike in contravention of any law for the time being in force; and

(*c*) causing damage to the property of his employer.]

Rules.

67. (*1*) The [4][State] Government may make rules to carry out the purposes of the Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters, namely:—

(*a*) the appointment of prescribed authority under clause (*21*) of section 2;

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[1] These words were substituted for the words "registered medical practitioner" by Bom. 17 of 1949, s. 3.

[2] These figures were substituted for the figures "1934", *ibid.*

[3] This Explanation was added by Bom. 28 of 1952, s. 19.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*b*) the period for which, the conditions subject to which and the holidays and occasions on which, the operation of the provisions of this Act may be suspended under section 6 ;

(*c*) the form of submitting a statement, the fees and other particulars under sub-section (*1*), the manner in which the registration of establishments is to be made and the form of registration certificate under sub-section (*2*), of section 7 ; and [1][the form and the period for notifying] a change and the fees under section 8 ;

(*d*) fixing six days in a year for additional overtime under sub-section (*3*) of section 14 ;

(*e*) fixing ten days in a year for overtime under sub-section (*3*) of section 19 ;

(*f*) further particulars to be prescribed for an identity card under section 25 ;

(*g*) the form of register for entering refusal of leave to be kept under section 35 ;

(*h*) fixing times and methods for cleaning the establishments under section 39 ; fixing standards and methods for ventilation under section 40 ; and prescribing such establishments as are to be exempted from the provisions of, and precautions against fire to be taken under section 42 ;

[2][(*ha*) the articles which a first aid box maintained under section 42A shall contain] ;

(*i*) the supervision which the [3][State] Government shall exercise over local authorities under section 43 ;

(*j*) the qualifications of Inspectors appointed under section 48 and their powers and duties under section 49 ;

(*k*) the registers and records to be maintained and notices to be displayed under section 62 ;

(*l*) the limit of hours of work under clause (*c*) of the *Explanation* to section 63 ;

(*m*) any other matter which is or may be prescribed.

(*3*) The rules made under this section shall be subject to the condition of previous publication and, when so made, shall be deemed to be part of this Act.

Protection to persons acting under this Act.

68. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Rights and privileges under other law, etc., not affected.

69. Nothing in this Act shall affect any rights or privileges which an employee in any establishment is entitled to at the date this Act comes into force in a local area, under any other law, contract, custom or usage applicable to such establishment or any award, settlement or agreement binding on the employer and the employee in such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

Persons employed in factory to be governed by Factories Act and not by this Act.

70. Nothing in this Act shall be deemed to apply to any person employed in or within the precincts of a factory and the provisions of the Factories Act, [4][1948] LXIII of 1948. shall, notwithstanding anything in the said Act, apply to such person.

Submission of annual report, etc.

71. It shall be the duty of every local authority to submit, within three months after the close of the year, to the [3][State] Government a report on the working of the Act within the local area under its jurisdiction during such year. It shall also submit to it from time to time such annual or periodical returns as may be required.

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[1] These words were substituted for the words " the form for notifying " by Bom. 28 of 1952, s. 20 (*1*).

[2] Clause (*ha*) was inserted, *ibid*, s. 20 (*2*).

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] These figures were substituted for the figures " 1934 " by Bom. 17 of 1949, s. 4.

om. XIV 39.

72. On and from the date of the commencement of this Act, the Bombay Shops and Establishments Act, 1939, shall be repealed : Repeal of Bombay Shops and Establishments Act, 1939.

r vided that—

(*a*) every appointment, order, rule, by-law, regulation, notification or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not consistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded by any appointment, order, rule, by-law, regulation, notification or notice made, issued or given under this Act ;

(*b*) any proceeding relating to the trial of any offence punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed but had continued in operation and any penalty imposed on such proceedings shall be recovered under the Act so repealed.

SCHEDULE I.

[Section I (*3*).]

Local areas.

[1][1. Greater Bombay.]

2. The Ahmedabad Municipal Borough and Cantonment.

3. The Poona City and Suburban Municipal Boroughs.

4. The Poona Cantonment.

5. The Sholapur Municipal Borough.

6. The Barsi Municipal Borough.

7. The Nasik Municipal Borough.

8. The Godhra Municipal Area.

9. The Surat Municipal Borough.

10. The Kalyan Municipal Area.

[2]* * * *

[2]* * * *

[2]* * * *

14. The Panvel Municipal Area.

[2]* * * *

16. The Bulsar Municipal Area.

17. The Malegaon Municipal Area.

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[1] This item was substituted for the original by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.
[2] Items 11, 12, 13 and 15 were deleted, *ibid.*

18. The Dhulia Municipal Area.

19. The Thana Municipal Borough.

20. The Nadiad Municipal Borough.

21. The Baramati Municipal Area.

22. The Dohad Municipal Area.

23. The Amalner Municipal Borough.

24. The Yeola Municipal Area.

25. The Kapadvanj Municipal Area.

26. The Pandharpur Municipal Borough.

27. The Bhusawal Municipal Borough.

28. The Jalgaon Municipal Borough.

29. The Satara Municipal Borough.

30. The Ratnagiri Municipal Area.

31. The Ahmednagar Municipal Borough.

32. The Chalisgaon Municipal Borough.

33. The Belgaum Municipal Borough.

34. The Bijapur Municipal Borough.

35. The Dharwar Municipal Borough.

36. The Mahad Municipal Area.

37. The Ankleshwar Municipal Area.

38. The Uran Municipal Area.

39. The Broach Municipal Area.

40. The Gadag Municipal Area.

41. The Hubli Municipal Borough.

42. The Bhiwandi Municipal Area.

SCHEDULE II.

(Section 4.)

Exemptions [1][*(subject to the note mentioned below)*].

Serial No.	Establishments, employees or other persons.	Provisions of the Act.
1	2	3
	I. Establishments.	
1	[2][Establishments] of the Central Government	All provisions.
2	[2][Establishments] of the [3][State] Government	Do.
3	[2][Establishments] of the Local authorities	Do.
4	[2][Establishments] of the Bombay Port Trust	Do.
5	[2][Establishments] of any Railway Administration	Do.
6	Bazars or fairs for the sale of goods for charitable or other purposes from which no profit is derived	Do.
[4][6A	Offices of the Reserve Bank of India	Do.]
[5][6B	[6][Offices of Trade Commissioners and of Consular officers and other diplomatic representatives of Foreign Governments ..	Do.]
[7][6C	Offices of air service companies	All provisions.]
[8][6D	Establishments maintained in connection with the Petrol Service Stations and Petrol Pumps	All provisions.]
[9][6E	Offices of Agricultural Produce Market Committees established under the Bombay Agricultural Produce Markets Act, 1939 (Bom. XXII of 1939)	All provisions.]
6F	Establishments pertaining to any kind of educational activities ..	All provisions.]
[10][6G	The High Court Law Library, High Court, Bombay ..	All provisions.]
[11][6H	Office of the Bombay Housing Board established under the Bombay Housing Board Act, 1948 (Bom. LXXIX of 1948) and offices subordinate to it	All provisions.]
[12][6I	Office of the Industrial Finance Corporation of India at Bombay.	All provisions.]
[13][6J	Establishments of the Bombay State Road Transport Corporation.	All provisions.]
[14][6K	Office of the Indian Rare Earths Limited, Old Yacht Club, Apollo Pier Road, Bombay 1	All provisions.]

[1] These words and brackets were added by G. N., Lab. D., No. 8/48-I, dated 28th April 1949.
[2] This word was substituted for the word "Offices" by G. N., Lab. D., No. 8/48, dated 24th August 1949.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] This entry was added by G. N., Lab. D., No. 184/48, dated 4th February 1949.
[5] This entry was added by G. N., Lab. D., No. 184/48, dated 26th February 1949.
[6] These words were substituted for the words "Office of the Commercial Secretary for Canada" by G. N., Lab. D., No. 184/48, dated 11th April 1949.
[7] This entry was substituted for the original by G. N., Lab. D., No. 8/48-I, dated 28th April 1949.
[8] This entry was added by G. N., Lab. D., No. 8/48-II, dated 14th April 1949.
[9] Entries 6E and 6F were added by G. N., Lab. D., No. 8/48-I, dated 28th April 1949.
[10] This entry was added by G. N., Lab. D., No. 8/48, dated 17th May 1949.
[11] This entry was added by G. N., Lab. D., No. 8/48, dated 11th July 1949.
[12] This entry was added by G. N., Lab. D., No. 8/48, dated 29th September 1949.
[13] This entry was added by G. N., Lab. and H. D., No. 8/48, dated 28th August 1950.
[14] This entry was added by G. N., Lab. and H. D., No. 8/48, dated 16th April 1951.

SCHEDULE II—*contd.*

Serial No.	Establishments, employees or other persons.	Provisions of the Act.
1	2	3
	II. [1][*Establishments, employees*] *and other persons.*	
7	[2][Employees in an establishment exclusively attending to the receipt, delivery, clearance or despatch of goods, or to assisting the travel arrangements of passengers by rail or other means of transport.]	Sections 10, 11, 13 to 18. (both inclusive).
8	Employees exclusively employed in any establishment in the collection, delivery or conveyance of goods outside the premises of any establishment.	Do. [3][and 21 and] 24.]
9	Employees in such chemists' or druggists' establishments as are approved by the [4][State] Government or the prescribed authority by a general or special order in this behalf.	[5][Sections 10, 11, 13 to 18 (both inclusive).]
10	[6][Establishments] for the purpose of attending upon the sick, infirm, destitute our mentally unfit.	Do. [7][and 33].
11	[8][Establishments] wholly or principally engaged in the sale of ice, aerated waters or funeral requisites.	[9][Sections 10, 11, 13 to 18 (both inclusive.)]
12	Travellers, canvassers and such other employees who are declared by the [4][State] Government by notification published in the *Official Gazette* in this behalf to be employees whose work is inherently intermittent. [10][*Explanation.*—The following employees shall be deemed to be employees whose work is inherently intermittent:— (1) Employees employed in the sections of establishments carrying out repairs for the maintenance of water supply, gas supply, electricity and drainage or repairs to ships; (2) Employees employed in bill collection work. (3) Employees employed in the Road Service Department of the Western India Automobile Association.] [11][(4) Employees employed in the sections of establishments for the purpose of maintenance and repairs of buildings or of projectors or sound equipments in cinemas] [12][or of air-conditioning and refrigeration plants] [13][or of punched-card accounting equipment] [14][or of lifts].	Do.

[1] These words were substituted for the word "Employees" by G. N., Lab. D., No. 8/48-I, dated 14th April 1949.
[2] This portion was substituted for the original by G. N., Lab. D., No. 8/48-I, dated 28th April 1949.
[3] These words and figures were added by G. N., Lab. D., No. 8/48, dated 11th July 1949.
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] These words and figures were substituted for the word "Do." by G. N., Lab. D., No. 8/48, dated 11th July 1949.
[6] This word was substituted for the words "Employees employed" by G. N., Lab. D., No. 8/48-I, dated 14th April 1949.
[7] This word and figure were added by G. N., Lab. D., No. 8/48-I, dated 28th April 1949.
[8] This word was substituted for the words "Employees in any establishment" by G. N., Lab. & H. D., No. 8/48, dated 28th September 1950.
[9] These words and figures were substituted for the letters "Do." by G. N., Lab. D., No. 8/48-I, dated 14th April 1949.
[10] This *Explanation* was added by G. N., Lab. D., No. 8/48-I, dated 28th April 1949.
[11] This portion was added by G. N., Lab. D., No. 8/48, dated 19th May 1949.
[12] These words were added by G. N., Lab. D., No. 8/48, dated 11th July 1949.
[13] These words were added by G., N., Lab. and H. D., No. 8/48, dated 20th February 1950.
[14] These words were added by G. N., Lab. and H. D., No. 8/48, dated 22nd June 1950.

SCHEDULE II—*contd.*

Serial No.	Establishments, employees or other persons.	Provisions of the Act.
1	2	3
13	[1][Employees in stalls, refreshment rooms and canteens at railway stations, docks, wharves, airports and the State Transport Bus Stations.]	[2][Sections 19, 20 and 23].
14	Employees working in any establishment as watchmen, caretakers, [3][fire-fighting staff] and messengers.	Sections 10, 11, 13 to 19 (both inclusive), 22 to 24 (both inclusive), 26, 28 to 31 (both inclusive).
15	The members of an employer's family	Sections 14 to 17 (both inclusive), 21 to 24 (both inclusive), 28 to 31 (both inclusive) [4][and 33].
16	A person occupying position of management or an employee engaged in a confidential capacity. Provided that the number of such persons in any establishment shall not exceed ten per cent. of the total number of employees therein, any fraction being rounded up to the next higher integer.	Do. [5][in respect of commercial establishments also [6][sections 13 and 18.]
[7][17	Employers of commercial establishments	[8][Sections 13 and 18 (*1*)] so far as concerns their own attendance and the attendance of the staff exempted from section 18.
18	Legal and Income Tax Practitioners	Sections 13 and 18 (*1*) so far as concerns their own attendance and the attendance of the staff exempted from section 18.
19	Establishments dealing wholly in fruits, flowers, vegetables, [9][betel leaves, meat,] [10][bread], [11][mawa], eggs and fish.	Section 18.
20	Female attendants for women's cloak-rooms or lavatories at theatres or other places of public amusement or entertainment or at residential hotels or restaurants.	Section 33.

[1] These words were substituted for the words beginning with the word "Employees" and ending with the word "airports" by G. N., Lab. & H. D., No. 8/48, dated 14th December 1951.
[2] These words and figures were substituted for the word and figures "section 19" by G. N., Lab. D., No. 8/48, dated 3rd June 1949.
[3] These words were added, *ibid.*
[4] The word and figures "and 33" were added by G. N., Lab. D., No. 8/48-I, dated 28th April 1949.
[5] These words and figures were added by G. N., Lab. D., No. 8/48-I, dated 14th April 1949.
[6] These words and figures were substituted for the word and figures "section 18" by G. N., Lab. D., No. 8/48-I, dated 28th April 1949.
[7] Entries 17 to 21 were added by G. N., Lab. D., No. 8/48-III, dated 14th April 1949.
[8] The words, figures and brackets "Sections 13 and 18 (*1*)" were substituted for the word, figures and brackets "section 18 (*1*)" by G. N., Lab. D., No. 8/48-I, dated 28th April 1949.
[9] These words were inserted, *ibid.*
[10] This word was added by G. N., Lab. D., No. 8/48, dated 17th May 1949.
[11] This word was added by G. N., Lab. & H. D., No. 8/48, dated 22nd June 1950.

SCHEDULE II—*contd.*

Serial No.	Establishments, employees or other persons.	Provisions of the Act.
1	2	3
21	Female House Keepers employed in residential hotels and female artists in cabaret or entertainment shows.	Section 33.
[1][22	Establishments of legal and income-tax practitioners ..	Section 15.
23	Sections of newspaper or news agency offices pertaining to news collection, editing and publishing.	Sections 13 to 18 (both inclusive).
24	Ice [2][and ice-fruit] manufacturing establishments	Sections 13 and 18.
25	Bakeries	Provision relating to opening hour and section 18.
26	Such hair cutting establishments and hammam-khanas as open not earlier than 6 a.m. and close not later than 9-30 p. m.	Sections 10, 11 and 16.
27	Shops dealing in milk, curds, cream and butter	Sections 11, 16, 18 and 33.
28	Photography establishments	Provisions of opening hour in section 10 [3][and provision of closing hour in section 11]
29	Railway book stalls	Sections 10, 11 and 18.
30	Those establishments in organised markets (like the cotton or stocks and securities markets) recognised by the prescribed authority as involving intermittent work, which observe not more than six and a half total hours of work per day between the limits of 11-30 a. m. and 6-30 p. m.	Section 15.
31	Sections in banks pertaining to safe deposit vaults or lockers or godowns.	Section 18.
32	Establishments employing not a single employee	[4][Section 62, same as regards any visit book prescribed to be maintained.]
33	Employers of all establishments	Provision relating to closing hour in sections 11, 12 and 19 so far as their own work is concerned, provided on sale or service to customers is rendered.
34	Piece workers in establishments	Sections 14, 16, 17 and 33].
[5][35	Shops supplying cycles on hire or petromax or and other lanterns on hire.	Provision relating to closing hours in section 11.
36	Shops dealing in newspapers	Section 18.]

[1] Entries 22 to 34 were added by G. N., Lab. D., No. 8/48-I, dated 28th April 1949.
[2] These words were added by B. N., Lab. & H. D., No. 8/48, dated 16th February 1951.
[3] These words and figures were added by G. N., Lab. D., No. 8/48, dated 11th July 1949.
[4] This portion was substituted for the words and figures "section 62" by G. N., Lab. & H. D. No. 8/48, dated 17th March 1952.
[5] Entries 35 and 36 were added by G. N., Lab. D., No. 8/48, dated 14th May 1949.

SCHEDULE II—*contd.*

Serial No.	Establishments, employees or other persons.	Provisions of the Act.
1	2	3
[1][37	Code Departments of Commercial establishments	Sections 13 and 18.]
[2][38	Operators employed in cinema theatres on days on which extra charity shows recognised by the prescribed authority are held.	Sections 28 and 30.
39	Children and young persons exclusively employed in the sport sections of residential clubs.	Sections 32 to 34 (both inclusive).]
[3][40	Establishments of Telegram Commission Agents	Sections 13 and 18.
41	Young persons employed as performers in dramatic shows ..	Section 33.]
[4][42	Such shops dealing in pan, bidi, cigarettes, matches and other ancillary articles as open not earlier than 6-00 a.m.	Section 10.]
[5][43	Upcountry depots and transhipment stations belonging to oil companies.	18.]
[6][44	Such employees of the Co-operative Banks as are engaged in propaganda, supervision and training in business methods of agriculturists and rural artisans.	Section 18.]
[7][45	Menial staff employed in stables attending to the work of feeding, bathing and milking of animals, cleaning of stables and distribution of milk.	Sections 13 to 18 (both inclusive).
46	Dal Manufacturing establishments	Sections 16 and 18.]
[8][47	Canteens attached to the Central Telegraph Office, Bombay ..	Sections 10, 11 and 18.]

[1] This entry was added by G. N., Lab. D., No. 8/48, dated 19th May 1949.
[2] Entries 38 and 39 were added by G. N., Lab. D., No. 8/48. dated 31st May 1949.
[3] Entries 40 and 41 were added by G. N., Lab. D., No. 8/48, dated 3rd June 1949.
[4] This entry was added by G. N., Lab. D., No. 8/48, dated 7th November 1949.
[5] This entry was added by G. N., Lab. & H. D., No. 8/48, dated 23rd March 1950.
[6] This entry was added by G. N., Lab. & H. D., No. 8/48, dated 11th April 1950.
[7] Entries 45 and 46 were added by G. N., Lab. & H. D., No. 8/48, dated 2nd June 1950.
[8] This entry was added by G. N., Lab. & H. D., No. 8/48, dated 25th July 1950.

SCHEDULE II—*concld.*

Serial No.	Establishments, employees or other persons.	Provisions of the Act.
1	2	3
[1][48	India Coffee Houses run by the Indian Coffee Board ..	Sections 35, 36 and 37.]
[2][49	The Out-door staff of the motor transport services ..	Sections 13 to 18.]
[3][50	Such establishments of the suppliers of band parties as close not later than 11 p.m.	Section 11.]
[4][51	All shipping Companies	Section 15.]
[5][52	Such restaurants as are granted special licences by the Commissioner of Police, Bombay, or the District Magistrate, to conduct business after 11 p.m.	Provision relating to the closing hour in section 19.]
[6][53	Tea stalls and Catering Hotels situated on the Railway premises.	Sections 25 (*d*) and 32 and Chapter VIII.]
[7][54	Establishments commonly known as general engineering works wherein the manufacturing process is carried on with the aid of power.	Section 13(*1*) so far as closing hour is concerned and section 18.]
[8][55	Newspaper shops in Poona Municipal Area dealing in evening dailies.	Provision relating to closing hours in section 11(*1*) (*a*) subject to the restriction that no such shop shall on any day be closed later than 10 p.m.

[9][*Note.*—The exemptions from the provisions of section 18 in entries Nos. 7 to 12, 14, 16, 19, 23, 24, 25, 27, 29, 31, 36, 37, 40, 43, 45, 46, 47, 49 and 54 shall be permissible in the case of such establishments referred to therein as give the employees concerned one day in a week as a holiday and make no deduction from wages on account thereof.]

[1] This entry was added by G. N., Lab. & H. D., No. 8/48, dated 9th August 1950.
[2] This entry was added by G. N., Lab. & H. D., No. 8/48, dated 28th August 1950.
[3] This entry was added by G. N., Lab. & H. D., No. 8/48, dated 6th November 1950.
[4] This entry was added by G. N., Lab. & H. D., No. 8/48, dated 27th November 1950.
[5] This entry was added by G. N., Lab. & H. D., No. 8/48, dated 2nd February 1951.
[6] This entry was added by G. N., Lab. & H. D., No. 8/48, dated 25th June 1951.
[7] This entry was added by G. N., Lab. & H. D., No. 8/48, dated the 10th March 1952.
[8] This entry was added by G. N., D. D. No. 8/48, dated 28th November 1952.
[9] This note was added by G. N., Lab. D., No. 8/48-I, dated 28th April 1949, and was amended by the following notifications:—

G. N., Lab. D., No. 8/48-I, dated 28th April 1949.
G. N., Lab. D., No. 8/48, dated 14th May 1949.
G. N., Lab. D., No. 8/48, dated 19th May 1949.
G. N., Lab. D., No. 8/48, dated 3rd June 1949.
G. N., Lab. and H. D., No. 8/48, dated 23rd March 1950.
G. N., Lab. and H. D., No. 8/48, dated 2nd June 1950.
G. N., Lab. and H. D., No. 8/48, dated 25th July 1950.
G. N., Lab. and H. D., No. 8/48, dated 28th August 1950.
G. N., Lab. and H. D., No. 8/48, dated 10th March 1952.

2879–2888

The Poona City and Poona Suburban Municipal Boroughs (Appointment of Municipal Commissioner) Act, 1948 (Bom. LXXX of 1948), at pages 2879–2888 has been repealed by the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), section 492.

The Bombay Animal Preservation Act, 1948 (Bom. LXXXI of 1948) at pages 2889-2894 has been repealed by the Bombay Animal Preservation Act, 1954 (Bom. LXXII of 1954), section 16.

THE BOMBAY SUGARCANE CESS ACT, 1948.

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BOMBAY ACT No. LXXXII OF 1948.[1]

[THE BOMBAY SUGARCANE CESS ACT, 1948.]

[*17th February 1949*].

Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 56 of 1950.
Amended by Bom. 61 of 1950.

An Act to levy cess and to establish a fund for the purposes of the development and improvement of the cultivation, growth and marketing of sugarcane and other irrigated crops, for the development of sugar industry and for the improvement and development of agriculture in general.

WHEREAS it is expedient to provide for the levy of a cess and establishment of a fund for the development and improvement of the cultivation, growth and marketing of sugarcane and other irrigated crops and for the development of sugar industry and for the improvement and development of agriculture in general in the [2][State] of Bombay ; and for certain other purposes hereinafter specified ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Sugarcane Cess Act, 1948.
(*2*) It extends to the whole of the [2][State] of Bombay.
(*3*) It shall come into force on such date as the [3][State] Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—
(*1*) " factory " means any premises including the precincts thereof, wherein twenty or more workers are working or were working on any day of the preceding twelve months and in any part of which any manufacturing process connected with the production of sugar by means of vacuum pans is being carried on, or is ordinarily carried on, with the aid of power ;
(*2*) " local area " means any area comprised in such factories as may be specified in the notification under section 3 ;
(*3*) " notified factory " means a factory specified in the notification under section 3 ;
(*4*) " Occupier " means the person who has ultimate control over the affairs of a notified factory ; Provided that where the affairs of such factory are entrusted to a managing agent, such agent shall be deemed to be the occupier ;
[4][(*5*) "ton" means a ton of 2,240 pounds (avoirdupois) ;]
(*6*) " prescribed " means prescribed by rules made under this Act.

CHAPTER II.

LEVY AND COLLECTION OF CESS.

Local area.

3. The [3][State] Government may by notification in the *Official Gazette*, specify any factory the area comprised in which shall be a local area for the purposes of this Act.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 567.
[2] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word " Provincial ", *Ibid.*
[4] Clause (5) was substituted for the original by Bom. 61 of 1950, s. 2.

Imposition of cess.

4. A cess at such rate not exceeding [1][ten rupees per ton] as may be specified by the [2][State] Government in a notification in the *Official Gazette* shall be levied on the entry of sugarcane into a local area for consumption or use therein :

[3][Provided that for the purpose of levying the cess, there shall be deducted from the gross weight of sugarcane entering into the local area during any month for consumption or use, such proportion thereof as may be prescribed representing the average weight of the tops of the sugarcane plant consisting of pith devoid of any sugar content and leaves and other trash usually present in the sugarcane and the cess shall be levied only on the remaining weight of the sugarcane after such deduction has been made].

Licence for consuming or using sugarcane in notified factory.

5. (*1*) After such date as the [2][State] Government may, by notification in the *Official Gazette*, specify, no sugarcane shall be consumed or used in a notified factory unless the occupier thereof has obtained a licence authorising him to do so.

(*2*) An application for such licence shall be accompanied by such fee and shall be made to such authority and in such manner as may be prescribed.

(*3*) On receipt of such application and after due verification by the authority concerned, a licence shall be granted :

Provided that the authority concerned may refuse to grant a licence to any occupier, if he has already cancelled, or refused to renew a licence previously granted to such occupier.

(*4*) A licence granted under this section shall be subject to such conditions as may be prescribed and shall be valid till the 30th June next following and shall be renewable in the prescribed manner.

(*5*) If the occupier commits any breach of the conditions of this licence, the prescribed authority may, with the prior approval of the [2][State] Government, cancel or refuse to renew his licence.

Returns.

6. (*1*) Every occupier shall furnish to the prescribed authority, before the seventh day of each month, a return stating the total quantity in [4][tons] of sugarcane [5][which entered into the local area comprised in his factory for consumption or use therein] during the preceding month, together with such further information in regard thereto as may be prescribed.

(*2*) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

Collection of cess.

7. (*1*) On receiving any return under section 6, the prescribed authority shall assess the cess payable in respect of the period to which the return relates and if the amount has not already been paid shall cause a notice to be served upon the occupier requiring him to make payment of the amount assessed within ten days of the service of the notice.

(*2*) If the occupier fails to furnish in due time the return referred to in section 6 or furnishes a return which in the opinion of the prescribed authority is incorrect or defective, the prescribed authority shall assess the amount payable by him in such manner as may be prescribed and the provisions of sub-section (*1*) shall apply as if such assessment has been made on the basis of a return furnished by the owner :

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1. These words were substituted for the words " six annas per mound " by Bom. 61 of 1950, section 3.
2. This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
3. This proviso was added by Bom. 61 of 1950, section 3.
4. This word was substituted for the word " mounds ", *ibid*, section 4.
5. These words were substituted for the words " consumed or used by his factory, *ibid*.

Provided that in the case of a return which he has reason to believe is incorrect or defective, the prescribed authority shall not assess at an amount higher than that at which it is assessable on the basis of the return without giving to the occupier a reasonable opportunity of proving the correctness or completeness of the return.

(*3*) A notice under sub-section (*1*) may be served on the occupier either by post or by delivering it or tendering it to the occupier or his agent at the factory.

Finality of assessment and recovery of unpaid cess.

8. (*1*) An assessment made in accordance with the provisions of section 7 shall not be questioned in any court.

(*2*) Any occupier aggrieved by an assessment made under section 7 may, within three months of service of the notice referred to in sub-section (*1*) of that section, apply to the prescribed appellate authority for the cancellation or modification of the assessment and, on such application, the prescribed appellate authority may cancel or modify the assessment and order the refund to such occupier of the whole or part, as the case may be, of any amount paid thereunder.

(*3*) Any amount recoverable under section 7 may be recovered as an arrear of land revenue.

CHAPTER III.

MISCELLANEOUS.

Power to inspect factories and take copies of records and accounts.

9. (*1*) The prescribed authority shall have free access at all reasonable times during working hours to any notified factory or to any part thereof.

(*2*) Such authority may at any time with or without notice to the occupier, examine the working records and accounts of any notified factory and take copies of or extracts from all or any of the said records or accounts for purposes of testing the accuracy of any return for informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder.

(*3*) Where the prescribed authority proposes to examine under sub-section (*2*) any record or account containing the description or formulae of any trade process, the owner of the notified factory may give to the said authority, for transmission to the [1][State] Government, a written notice of objection and thereupon the said authority shall seal up the record or account pending the orders of the [1][State] Government.

Information acquired to be confidential.

10. (*1*) All such copies and extracts and all information acquired by the prescribed authority from an inspection of any notified factory or any part thereof or from any return submitted under this Act shall be treated as confidential.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*2*) If, save as provided in sub-section (*3*) the prescribed authority discloses to any person any such information as aforesaid without the previous sanction of the [1][State] Government he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both.

(*3*) Nothing in this section shall apply to the disclosure of such information in respect of the making of a false return under this Act.

Application of proceeds of cess.

[2][**11.** (*1*) The proceeds of the cess and fees recovered under this Act shall first be credited to the Consolidated Fund of the State and shall after deduction of the expenses of collection and recovery be shown into and transferred to a separate fund called the State Sugarcane Cess Fund.

(*2*) The Fund shall be expended in such manner and under such conditions as may be prescribed for the purposes of the development and improvement of cultivation, growth and marketing of sugarcane and other irrigated crops, for the development of sugar industry and for the improvement and development of agriculture in general in the State of Bombay.

(*3*) Any amount transferred to the State Sugarcane Cess Fund in accordance with the provisions of sub-section (*1*) shall be charged on the Consolidated Fund of the State.]

Penalty.

12. If the occupier consumes or uses sugarcane in a notified factory without obtaining a licence under section 5, he shall, on conviction, be punished with fine which may extend to one thousand rupees.

Determination of occupier for the purpose of Act.

13. (*1*) Where the occupier is a firm or other association of individuals, any of the individual partners or members thereof shall be responsible for the observance of the provisions of this Act and may be prosecuted and punished under this Act for any offence for which the occupier is punishable :

Provided that the firm or association may give notice to the prescribed authority that it has nominated one of its members who is resident in the [3][State] to be occupier for the purposes of this Act and such individual shall so long as he is so resident be deemed to be the occupier for the purposes of this Act until further notice cancelling the nomination is received by the prescribed authority or until he ceases to be the partner or member of the firm or association.

(*2*) Where the occupier is a company, any one of the directors thereof, or in the case of a private company, any one of the share-holders thereof may be prosecuted and punished under this Act for any offence for which the occupier is punishable :

Provided that the company may give notice to the prescribed authority that it has nominated a director or, in the case of a private company, a shareholder who is resident in either case in the [3][State], to be the occupier for the purposes of this Act and such director or shareholder shall, so long as he is so resident, be deemed to be the occupier for the purposes of this Act, until further notice cancelling the nomination is received by the prescribed authority or until he ceases to be a director or shareholder.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] Section 11 was substituted for the original by Bom. 56 of 1950, s. 4.
[3] This word was substituted for the word " Province" by the Adatpation of Laws Order, 1950.

14. (*1*) The [1][State] Government may make rules for the purpose of carrying into effect all or any of the provisions of this Act. Power to make rules.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

[2][(i-*a*) the proportion of the gross weight of sugarcane for the purposes of deduction under the proviso to section 4 ;]

(*a*) the manner in which and the authority to which application for licence shall be made and the fee with which it shall be accompanied under section 5 ;

(*b*) the conditions subject to which a licence shall be granted under section 5 and the manner in which it shall be renewable ;

(*c*) the further information to be furnished under section 6, the authority to which and the form in which such returns shall be furnished and the manner in which such returns shall be verified ;

(*d*) the manner in which the amount payable under section 7 shall be assessed ;

(*e*) the appellate authority to whom an application for cancellation or modification of assessment shall be made under section 8 ;

(*f*) the authority which can inspect notified factories ;

(*g*) the manner in which and the conditions subject to which the accumulations in the Provincial Sugarcane Cess Fund shall be expended ;

(*h*) the authority to whom notice is to be given under section 13 ; and

(*i*) any other matter which is to be or may be prescribed.

(*3*) In making any rule under sub-sections (*1*) and (*2*), the [1][State] Government may provide that a breach of the rule shall, where no penalty is provided by this Act, be punishable with fine not exceeding one thousand rupees.

(*4*) Rules made under this section shall be subject to the condition of previous publication.

*CHAPTER IV.

TRANSITIONAL PROVISIONS.

[*Deleted by Bom. 61 of 1950, s. 6.*]

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[1] This word was substituted for the word "Provincial", by the Adaptation of Laws Order, 1950.

[2] Clause (i-*a*) was inserted by Bom. 61 of 1950, s. 5.

* Section 6 of Bom. 61 of 1950 reads as follows :—

6. Chapter IV of the said Act shall be deleted :

Bom. LXI of 1950.

Provided that the deletion of the said Chapter shall not affect any obligation or liability already accrued or incurred or any proceeding or remedy in respect of such obligation or liability or anything done or suffered to be done under the said Chapter before the Bombay Sugarcane Cess (Amendment) Act, 1950, comes into force. Deletion of Chapter IV of Bom. LXXXII of 1948.

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